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Research Paper Series
Vol. 1 No. 1 2009

ISSN: 1811-3265

**The Crises of Governance:
Politics and Ethnic
Conflicts in Kenya**

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Moi University Press

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MOI UNIVERSITY
PRESS 

Moi University Press, Moi University, Eldoret, Kenya

Senior Editor – Tom Ouko

Typesetter – Joyce Majanja–Aduma

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DISCLAIMER

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ABBREVIATIONS

AAPS	African Association of Political Science
CBO	Community Based Organizations
CJPC	Catholic Justice and Peace Commission
CRS	Centre for Refugee Studies (Moi University)
DC	District Commissioner
DN	Daily Nation
DO	District Officer
DP	Democratic Party
EAS	East Africa Standard
FERA	February Resistance Movement
FORD	Forum for the Restoration of Democracy (This original party later split into FORD Kenya, FORD Asili and FORD People)
IMF	International Monetary Fund
IPPG	Inter Parties Parliamentary Group
GSU	General Service Unit
ITDGEA	Intermediate Technology Development Group of East Africa
KADU	Kenya African Democratic Union
KANU	Kenya African National Union
KAR	Kings African Rifles
KCRC	Kenya Constitutional Review Commission

KENDA	Kenya National Democratic Alliance
KHRC	Kenya Human Rights Commission
KYPPEDE	Kibera Youth Programme for Development
KPU	Kenya People's Union
KSC	Kenya Social Congress
MUHURI	Muslim for Human Rights
MP	Member of Parliament
NARC	National Alliance Rainbow Coalition
NCCDP	National Co-ordinating Committee for Displaced Persons
NCCK	National Christian Council of Churches of Kenya
NCEC	National Consultative Executive Council
NDP	National Development Party
NGOs	Non Governmental Organizations
PC	Provincial Commissioner
SAPs	Structural Adjustment Programmes
SARDEP	Semi Arid Regional Development Programme
SDP	Social Democratic Party
SNV	Netherlands Development Organization
SRIC	Security Research Information Centre
USA	United States of America
WR	Weekly Review

ACKNOWLEDGEMENT

The authors wish to thank the following for their contribution to this study: the African Association of Political Science (AAPS) for sponsoring and financing this study; the Centre for Refugee Studies (CRS), Moi University, for funding the workshop that discussed its findings; Ms Pamela Abuya for participating in the field research; Professor John J. Okumu, Professor Joshua Akonga, Professor Peter Amuka and Mr. David Muindi for reading the manuscript and making valuable comments; the respondents who spared their time to answer our questions; and finally, Molly Awino and Georgine Anyona for typing the work .

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CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND TO THE STUDY

The most pronounced characteristics of Kenya's governance since independence in 1963 are ethnicity, ethnic conflict and the politics of patronage and clientelism (Barkan 1992). Most discourses on the subject of Kenyan politics today, as evidenced by available literature, focus on these features and how they relate to the country's politics, particularly, over the last three decades. On the whole, they are entrenched in the political culture of the Kenyan State. It is noteworthy that this state of affairs, with its negative consequences, is a product of many factors, including the type of political leadership Kenya has had since independence in 1963.

Today, Kenya is more ethnically divided than it has ever been before in the history of its existence. In the last decade, for instance, ethnic violence erupted in seven of the country's eight provinces, claiming several hundreds of lives and displacing thousands of others. During the first sixteen months of the new millennium, ethnic violence erupted in two provinces. The first is the Rift Valley, which is the country's largest and most heterogeneous area in terms of ethnic composition. Here, there has been conflict between two Kalenjin communities, the Pokot and the Marakwet. The second scene of conflict is at the border between the Rift Valley and Nyanza provinces, an area known as Trans Mara. Here ethnic conflict has intermittently erupted between the predominantly pastoral Maasai and the agricultural Abagusii. A striking similarity between these ethnic conflicts (tribal clashes) has been the reluctance of the government security machinery to forcefully and effectively contain the violence. This is quite reminiscent of the manner the government responded to the pre-election ethnic clashes between the Kalenjin and some other Kenyan communities and between coastal

and upcountry communities in Likoni, a multi-ethnic residential area in Mombasa in the 1990s, and finally the Nubian and other residents in the Kibera slums of Nairobi.

The persistence of ethnic conflicts in Kenya is obviously an unsettling event. Apart from the fact that these conflicts lead to insecurity and loss of many lives and property, they also cast doubts about the efficacy of governance and a serious uncertainty regarding the prospects of democracy in the country. From an academic point of view the situation calls for a re-assessment of existing views about ethnicity and its relations with politics. The present attempts at constitutional reforms in Kenya, concerns with regime transition and presidential succession provide ample reason and good opportunity for this endeavour.

1.2 RESEARCH PROBLEM

The main problem with which this research is concerned is a contextual and empirical analysis of the phenomenon of ethnicity, ethnic conflict and its relations with the processes of governance and constitutional reform. In this connection, this study seeks to address the following questions, among others: what is ethnicity and what are the main causes of ethnic conflicts? How and with what consequences has the government of Kenya responded to ethnic conflicts? In what ways and to what extent has ethnicity influenced governance and constitution making? Or looked at differently, in what ways has the nature of governance itself influenced the politics of ethnicity and caused ethnic conflicts? What are the prospects for democracy in the country given the worsening local economic conditions and the persistence of ethnic conflict?

1.3 OBJECTIVES OF THE STUDY

The objectives of this study were to:

- i) Analyze ethnicity in the context of the political landscape in Kenya.
- ii) Establish links between economic, social, political and ethnic conflicts.

- iii) Examine how ethnic conflicts have been managed.
- iv) Assess the influence of ethnicity on the ongoing constitutional reform and the debate on the presidential succession.

1.4 JUSTIFICATION OF THE STUDY

Apart from the important contribution of new data to existing literature, this study addresses a subject that is at the core of Kenya's state process and political dynamics. Equally important, this study addresses critical issues that are clearly of national importance in Africa, generally, and Kenya in particular. By focusing on the interface between politics and ethnic conflict, this study hopes to contribute to a better understanding of Kenyan society. Furthermore, the findings of this study will help policy makers to address the problems of ethnic violence and governance and to find solutions to them.

1.5 METHODOLOGY

This study utilized primary and secondary data. The former comprised field surveys in places sampled from areas that have experienced ethnic conflicts since 1990. Field interviews were carried out with respondents selected from the following groups of people: victims of ethnic violence, local politicians, lawyers, officials of the Government and Non-Governmental Organizations (including churches and civil societies). The criteria used to select respondents from these groups included purposive and random sampling.

The primary aim of interviews with these groups of people was to generate data regarding the causes, nature and magnitude of the ethnic conflict in Kenya. Primary data helped to generate information regarding the relationship between ethnicity and politics, constitutional review and succession. Apart from oral interviews, we visited and observed areas that were affected by ethnic violence. This helped in the formation of impressions that were based on real perceptions of the impact of ethnic conflict.

Secondary data included relevant works that have been published on the subject: books, journal articles and local newspapers and magazines. These sources complemented primary data. They were also used to corroborate oral testimonies. Data collected for this study was analysed qualitatively and where possible quantitatively.

1.6 ORGANIZATION OF THE STUDY

In the light of our research problem, objectives and justification, this study first reviews literature, assesses the existing theoretical approaches to ethnicity and outlines some of the critical issues regarding the ethnic question. Secondly, we demonstrate the apparent failure of the Kenya Government to responsibly address the challenge of ethnicity by discussing the course and organization of the conflict that took place in many parts of the country within the context of the debates and other events that took place since the late 1980s. In the next two chapters, we examine the causes and impact of the ethnic conflict by focusing on selected areas for illustrative purposes: Molo, Pokot, Marakwet, Laikipia, Kwale, Likoni and Kibera. The first five areas represent the rural scenes of the conflicts while the last two are located in Kenya's two largest urban areas, Mombasa and Nairobi, respectively. Chapter six, on the management of conflict, evaluates the efficacy of the different levels of governance in Kenya by assessing the initiatives and action of local communities in the conflict areas, the civil society and the state to manage or resolve the ethnic conflicts. In chapter seven we analyze the implications of ethnicity and ethnic conflicts for the on-going constitution reform process that is inextricably tied up with the issues of citizenship and the politics of transition from the Kenya Africa National Union (KANU) to the National Alliance Rainbow Coalition (NARC) regime. The last chapter draws theoretical and empirical conclusions regarding Kenya's experiences with ethnicity and ethnic conflicts. It also recommends what should be done to reconcile competing ethnicity with responsible citizenship for the purpose of enhancing democratic governance.

CHAPTER TWO

THE ETHNIC QUESTION

1.1 INTRODUCTION

This chapter reviews some of the existing literature on ethnicity. It then evaluates existing theoretical approaches and identifies critical issues that have implications for governance. Finally, it suggests the usefulness of the political economy approach for this study.

2.2 LITERATURE REVIEW

Existing literature that is related to this study provides a working definition of ethnicity and explains the causes of ethnic conflict but does not sufficiently relate the phenomenon to governance, constitution-making and economic reform. It is our strong view that ethnic conflict is an event that is inextricably bound up with economic and political processes. As this section demonstrates, there are a number of issues that are either not analysed at all or addressed unsatisfactorily.

Muigai (1995:387 and 1995:161), Oyugi (1992:14), Slayter and Barbara (1991:305) and Okumu (1975:182) have defined ethnicity in terms of consciousness of common origins and cultural identity regarding, for instance, language and religion among different communities. This consciousness, they assert, leads to inter-communal competition for scarce resources and results in antipathy among Kenya's different communities. While this definition highlights the attributes on which ethnic identities are based and what might cause ethnic conflict, it is susceptible to one major weakness. It leads to the perception of ethnicity as a static consciousness and ethnic conflict as a natural phenomenon among Africans. This perception is clearly untenable. Since ethnic conflict is a manifestation of a deeper crisis than a quarrel over cultural differences, ethnicity needs to be defined within the

dynamic contexts of economic and political processes. This view is supported by Mawhood and Walls (1993:171) who stated that it would be naive to suggest that ethnic affiliation has been the sole determinant of the various conflicts that have characterized Kenya's history. This calls for the need to analyze the concrete political and economic factors that have led to ethnic animosity and conflict in the country.

A number of specific factors provide the broad context that explains ethnicity and ethnic conflict in Kenya (Oyugi 1992; Mawhood and Walls 1993:175). The first is the arbitrary establishment, by the British colonial authorities, of boundaries that brought together diverse communities in Kenya. These communities, which had existed as independent nationalities before the advent of colonialism, were now expected to exist as one "nation" and pledge their allegiance to one locus of power, the Governor. This was not to be, given the cultural diversity of these communities and the foreign nature of colonial control. The second factor was the colonial establishment of administrative units and institutions such as the Native Authority Systems that were conterminous with different ethnic groups. This made colonial governance essentially ethnic in nature. The different Kenyan communities were expected to operate within this ethnic framework, a condition that encouraged mutual feelings of differences often among communities that had a lot in common. Thirdly, colonialism led to uneven development regarding, for instance, participation in colonial administration, education, agriculture, trade and transportation. This led to competitive clamour among Kenyan communities for colonial economic and social resources.

Ethnic competition for colonial resources peaked during the struggle for independence. Mamdani (1996:24) argues that this came about because the most effective strategy to bring down colonial rule was simultaneous revolt against it and capture of its most visible instruments of control. Ethnicity and nationalism, therefore, jointly brought about political independence. These two levels of consciousness would co-exist but quite uneasily in the post-colonial era. Indeed, Leys (1994) and Muigai (1995) point out this development and blame the post-

colonial leadership for it. In brief, they argue that the new political class fostered ethnic sentiments in order to build their own power base; they conspired to manipulate ethnic identity to achieve their own end. Ethnicity was, therefore, an ideology that these leaders constantly used to struggle for and maintain power to exploit the lower classes and those in alternate ethnic groups.

Mukonoweshuro (1991:102) has, however, criticized this explanation on the ground that it does not pursue the complete logic of the materialist basis of ethnicity to its fullest. He adds that the perception of ethnicity purely as an ideology does not explain the responses of the oppressed and exploited people to post-colonial authoritarian regimes. He posits, further, that like other analyses based on the underdevelopment theory, this concept of ethnicity does not consider external economic and political pressures.

The debate about the colonial origins of ethnic conflicts contributes to the understanding of the long-term factors that explain the present situation in Kenya. But the shortcoming in the explanation that Mukonoweshuro reveals calls for the need to analyze more critically the influences of both internal and external economic and political factors and, in addition, the role of the masses. Adekanye's analysis (1995:361-367) of the linkages between the Structural Adjustment Programmes (SAPs) and rising ethnic tension and conflicts in many African countries is useful regarding the bridging of this lacuna. According to him, SAPs have led to economic stagnation and even decline. They have consequently exacerbated conflicts between different ethnic groups and classes. This is largely because SAPs have brought about differential economic deprivation among communities (Maxon and Ndege 1995). Those who have been more intensely impoverished by SAPs have been forced to struggle for resources that are controlled by their relatively less deprived neighbours. But concurrently, the less deprived have jealously attempted to protect the resources under their control.

With specific reference to Kenya, Adekanye (1995:363) asserts that because of SAPs:

old ethnic animosities still rage while struggles over the control of land have reached new heights ...Both have become subject to increasing manipulation by a regime, which is obviously under mounting pressures, foreign as well as domestic, and is preoccupied with survival.

Adekanye's explanation, though too brief as he uses many African countries to support his thesis, provides a useful lead to pursue in a similar but detailed analysis of the situation in Kenya. Such analysis should state the specific ways by which SAPs have deprived Kenyan communities that are embroiled in conflict. It should, further, identify the specific economic resources struggles for whose ownership are the causes of conflict. Such analysis should reveal the impact of SAPs on the mobilization and distributive capabilities of the Kenyan state regarding the resources and, in addition, its capability to resolve conflict over communal and individual ownership of and control over such resources. Lastly, one needs to discuss the prospects for peaceful constitutional and economic reform and presidential succession in the light of the ethnic conflicts. These are issues that relate to governance, constitutional and economic reform and, therefore, link ethnic conflict to a much wider scenario.

Young (1997:4, 12—13) convincingly argues that ethnicity poses a challenge to democratic governance and poses the following questions: How can democracy survive in a culturally plural social environment of the great majority of African states? By what means can the cultural diversity of African civil societies find adequate accommodation so that the conflict potential in identity politics remains within civil bounds? In the same vein, Muigai(1995:194) asks whether ethnicity is a problem *for* or *of* democracy. Both writers assert that ethnicity need not necessarily hinder the democratic process. They argue that what is important is how a country such as Kenya understands, harnesses, integrates or accommodates ethnicity into its body politic by

constitutional and legal processes. According to Young (1995:12—13), democratic statecraft should offer many chances for the management of ethnic diversity, particularly if the institution facilitates power-sharing among the major branches of government and the major ethnic groups. The element of power-sharing is not to be seen only in terms of its distribution among the different branches of government, but most important, empowering local leaders to manage local conflicts. This would preclude the necessity of having the President personally intervene, and always ineffectively, in the various incidences of ethnic conflict. Apart from very limited works by scholars such as Southall (1999) that consider the high politics of the state, there is a dearth of literature that elaborately discusses these issues from the perspective of the deep ethnic politics of the masses. This indicates a gap that requires bridging.

2.3 THEORETICAL APPROACHES AND CRITICAL ISSUES

There is no doubt that in Kenya, as in other countries in Africa, ethnicity constitutes an integral part of political, economic and social life. It is played out in debates in the country's parliament, courts, provincial and district commissioners' *barazas*, the media, bars, public transport vehicles (*matatu*), school committees and city and municipal councils, among many other places. It manifests itself peacefully in debates but violently in ethnic clashes alongside or in tandem with issues related to land, agriculture, gender, poverty, democratization etc. The ethnic question still remains little understood and unresolved. This is partly owing to its complexity but also because of its emotive nature. The ethnic question revolves around the following issues: what ethnicity is all about; its origin and interactive relations with class and the state; its manifestations and reasons for persistence in Kenya's politics; its implications for constitution-making and the democratization process. The following analysis of existing theoretical approaches should highlight a number of critical issues that are pertinent to the otherwise pervasive phenomenon.

There are at least four main theoretical approaches to the question of ethnicity: classical modernizationist, Marxist, social constructionist and citizenship theories. None of these theories is entirely exclusive of the other. In fundamental ways they have borrowed from one another and differ only in the sense that they emphasize specific perspectives. The classical modernization approach is represented by Gabriel Almond and G. Bingham Powell (1966), David Apter (1968) and Samuel Huntington (1965). For these scholars, ethnicity or tribalism, as they prefer to call it, is an inescapable characteristic of traditional African political culture and manifests itself in statelessness, ascriptive recruitment to political positions, and associational (ethnic) organizations. For them ethnicity is primitive and atavistic. The modernizationists, therefore, argue that ethnicity must be changed or abandoned in favour of non-ethnic voluntary organizations and interest groups such as political parties, trade unions, chambers of commerce, etc. They further argue that the authority of the state should be so pervasive that it overshadows ethnic groups as centers of power and influence. All these changes are supposed to be effected by increased political socialization through such agencies as schools, recruitment into state bureaucracies on the basis of achievement, economic development and urbanization. Colonialism and its structures are widely perceived as a good start in the trajectory of political change. Implied, therefore, is continuity rather than discontinuity with the colonial legacy during the post-independence era. But this perception has been proved fallacious by experience: the impact of western education, urbanization, and communications have heightened and extended ethnic consciousness beyond ethnic boundaries in present day Kenya. The weakness of this approach, therefore, is that it is ambiguous and fails to appreciate the dynamic nature of ethnicity.

The ambiguity that characterizes this approach is demonstrated by the fact that both the modernizationists and the colonial authorities insist that ethnic communities must be developed cautiously to avoid dis-equilibrating the otherwise resilient, harmonious, cohesive, self-contained and autonomous tribal societies. It is no wonder, therefore, that the colonial state in Kenya enhanced ethnic segregation through

indirect rule. It established administrative units such as districts and provinces whose boundaries mostly coincided with those of Kenya's ethnic groups. African political participation was confined to the chiefs' *baraza* and the Local Native Councils, later, African District Councils. These made colonial governance essentially ethnic in nature with the consequence that mutual feelings of cultural difference and competition for economic resources and political power grew throughout the colonial period. Inter-ethnic rivalries were fed into the nationalist movement as Kenyan communities simultaneously intensified their struggles to bring down colonial rule and capture political power. Thus the politics of ethnicity and nationalism in Kenya were played together and this was demonstrated by the proliferation of tribal political parties. This failure to establish nationwide political parties persisted into the postcolonial period. The greatest weakness of this approach, therefore, is that it does not adequately explain this persistence of ethnicity and therefore, blames its victims rather than the concrete situation that created and continues to perpetuate it. Ethnicity is perceived as a static consciousness that leads to antipathy and conflict. Finally, modernization erroneously suggests that the Euro-American developmental trajectory is the panacea for ethnic conflicts in Africa. It shares some of its weaknesses with the Marxist approach.

Marxist scholars represented here by the anthropologist Archie Mafeje (1971) also view ethnicity as backward, fascist and idiotic and at worst, a false consciousness. In Mafeje's (1971:261) own words: "tribalism oversimplifies, mystifies and obscures the real nature of economic power relations between Africans themselves and between Africans and the capitalist worlds". This may be true, but how does one explain the resilience of ethnicity among the largely illiterate peasants, semi literate workers and the highly educated power elites in Kenya and the rest of the African continent? Is it really true that ethnicity does not have explanatory power regarding understanding the civil wars and ethnic clashes in Africa? What makes more sense to Marxist and Neo-Marxist scholars is the primacy of materialist and class interpretation of African politics. They would rather that African politics be explained in terms of the development of forces and modes of production and

the concomitant class struggles. But the value of such interpretation is limited by the fact that the process of class formation is still in its infancy and is limited in intensity; it is highly variable among the diverse economic sectors and regionally. Ethnicity and class compete for the allegiance of Kenyan people but it is obvious that the majority of Kenyans still identify quite readily with their ethnic group rather than class. It is this difficulty to completely isolate ethnic allegiance from class membership in the analysis of politics in Africa that ultimately led to the formulation of the two other theoretical approaches which are basically neo-liberal: social constructionist and citizenship theories.

The social constructionists include Benedict Anderson (1991), Terence Ranger (1992), Crawford Young (1982,1992,1997and 2002) and John Lonsdale (1992). They argue that ethnicity is a social cultural construct based on imagination that is inspired by both primordial sentiments and change. More specifically, ethnicity is “the consciousness of people who share cultural and linguistic and sometimes kinship and religious roots and who conditionally affiliate for purpose of political mobilization and political action” (Muigai 1995: 161). Depending on the exigencies of the situation, social mobilisers who may either be cultural entrepreneurs or political brokers (Young 1982: 45-6) will invest in this consciousness to facilitate the crystallization of imagined ethnic identities for the realization of specific objectives, the effective survival for the ethnic group and the winning of high political administrative office by the power class. This process of constructing or inventing ethnic identities is complex and is premised on the notion that people are easily manipulated, that ethnicity is fluid, that cultures are pluralist, and that power is negotiable. Social constructionists also advocate a triple helix involving ethnicity, class and the state in the understanding of conflict in Africa. In the words of Crawford Young (1992:72):

Recent history suggests that the major patterns of social conflict cohere around two organizing principles: class and ethnicity. Both are shaped and defined in important ways by the state, which serves as the primary arena of social encounter and collective conflict. Thus an inquest into contemporary and perspective social conflict

requires examination of the spheres of the state, class and ethnicity. All these are in flux, all three are changing and the task before us is to seek out the elements of transformation within each. Most critical of all is the nexus that joins them. Although each has certain autonomy, at least analytically, the essence of political and social dynamics can be found in the interaction between them.

Unlike the modernization theorists and Marxists, the social constructionists consider ethnicity a phenomenon that gives political and social actors identity and facilitates social behaviour. Lonsdale, (1992:268) is quite articulate in regard to the role of ethnicity among the Kikuyu, in particular and asserts:

To debate civic virtue was to define ethnic identity. While contestants backed their claims with allusions to the uncouth ways of "the other", black or white, neither ethnic distinction nor tribal rivalry was central to their theme. The vital issue was that of citizenship under an alien regime, what obligations it demanded, what rights it conferred. At the time, citizenship had an ethnic dimension. There were good reasons for this... First, ethnic identity was the reverse of what is often said to be unthinking conformity. A common ethnicity was the arena for the sharpest social and political division. Second, argument over domestic civic virtue tested claims to provide external political leadership. Finally, contests about tribal identity did not exclude and may have rekindled a territorial, 'Kenyan' political imagination then. There is no reason why they should not do so now. Much depends on the roles of debate. To rethink tribes may also be to rethink states.

But Lonsdale is careful enough to distinguish between moral ethnicity and political tribalism. He argues that political tribalism flows from high political intrigue; it constitutes communities through external competition. Moral ethnicity creates communities from within through domestic controversy over civic virtues. In the context of Kenya, moral ethnicity entails activities by each of the diverse communities to build more schools, hospitals, roads, cattle dips and other facilities to improve their lot. Appeals by respective community leaders that the state

disburses funds for the development of their regions is yet another example of moral ethnicity. Moral ethnicity therefore challenges members of ethnic groups to play their role in development. It also exhorts the state to be accountable to the people. Moral ethnicity is therefore positive and serves a useful purpose. Political tribalism, on the other hand, is often used by selfish political brokers to further their own selfish aspirations, most notably, their own appointment to high office, electoral gain and personal preservation. While moral ethnicity is developmental and progressive, political tribalism is likely to cause ethnic conflict. But isn't it likely that moral ethnicity can easily degenerate into political tribalism? Why should the state allow political tribalism to undermine its hegemony and obligation to its citizens and even subvert its very existence through ethnic conflict and civil wars? The interrelations between ethnicity, class and the state attempt to provide answers to these questions.

The link between ethnicity, class and the state exists at the following levels: conditions of material and cultural life, ethnic and class consciousness, ideology, power and leadership styles of those who control the state (Leys 1994: 198-206; Mukonoweshuro 1991; Adekanye 1995; and Muigai 1995: 162-170). The relations at all the three levels are symbiotic. While the ruling class or the power elite derive their legitimacy from their respective ethnic groups, their access to wealth and exercise of state power thrive most securely on an elaborate patron-client network which radiates from the presidency to the local party leaders. Quite often, the power elites easily arouse the sentiments of their ethnic communities either in support of or against state leadership and policies. The leaders of the incumbent regime also mobilize their ethnic clients for support. Thus, ethnicity becomes politicized as politics is ethnicised (Kaarsholm 1994). When this happens inter and intra party politics, which are essentially influenced by ethnicity and class, can easily degenerate into violent ethnic conflict. The factors that are most likely to bring about ethnic conflict are: differential regional economic development; the reluctance of richer regions to share their resources with others perceived to be outsiders; a coincidence of frustrating political and economic conditions, the negative effects of

Structural Adjustment Programmes (Adekaye 995: 365). Changing weather conditions that affect the size of pastoralists' herds and grazing ground have, similarly, been known to influence ethnic relations either positively or negatively (Witsenburg and Adano 2003). All these issues often influence the manner in which people in Kenya define and redefine themselves against others and their relations with and obligations to the state. At the centre of this exercise is the question of people's perception of citizenship.

Citizenship theorists (Mahmood Mamdani 1996; Stephen Ndegwa 1997; and Said Adejumbi 2001) posit that the post-colonial state in Africa simply inherited the structural dualism of the colonial state: a central bureaucratic machinery that was manned by and served mostly the European expatriates who were considered by the colonial regime as the citizens, and the local authority which enforced customary law on Africans the vast majority of who lived in reserves and were classified as natives or subjects. As a consequence, the post colonial state is today inhabited by individuals who possess a form of dual citizenship that bestow on them contradictory and competing identities, rights, allegiances and obligations. On the one hand is the national citizenship signified by identity cards, passports and pieces of legislation that specify citizenship rights and obligations most of which the state cannot enforce because of its own weakness. On the other hand, is the ethnic or sub national citizenship that grants the same individual ethnic identity, rights and obligations that are cognitively and affectively enforced by cultural practices like circumcision and the moral economy. Unlike the weak postcolonial state, the ethnic community enjoys greater legitimacy and exercises a more pervasive authority or influence over the individual. Said Adejumbi (2001: 77) explains the consequences of the uneasy relations between the weak state and a populace with divided identities and citizenship as follows:

While in the present conjuncture most of the conflicts threatening to tear many states apart are identity based, underlying them is the issue of citizenship and rights. Group identities have assumed not only a primary means of social expression, but also of rights and

privileges in the polity. The concept of national citizenship of equal rights, benefits and duties for all citizens has been attenuated or bifurcated, with the state sunk in a cesspool of inter-group struggles and conflict over the distribution of public goods. The claims of marginalization, domination and social injustice by groups or individuals often derive from this reality. Put differently, inter-group or identity-based conflicts and civil wars are manifestations of a deep-seated problem of citizenship in different national contexts.

The citizenship approach has been lauded for a number of reasons (Ndegwa 1997: 599600 and 613): its provision of a precise manner in which to theorize the relationship between ethnic identity, authority and legitimacy; its ability to explain why ethnic loyalties undermine national unity and stability; its introduction of a discourse of rights and obligations as well as opportunity and constraint; and finally, the opportunity it offers for the analysis of the implications of the politics of ethnicity and ethnic conflicts for constitution-king and democratization. It is in regard to the last two issues that this approach takes the debate beyond modernization, Marxism and social constructionism.

Ethnicity should ultimately be perceived as a challenge rather than a hindrance to democracy. The critical issues one has to grapple with must include the following: How can democracy survive in an ethnically plural country like Kenya? By implication, how can constitutional reforms reconcile ethnic and national citizenship and provide for and guarantee enjoyment of rights and discharge of obligations? To what extent is constitution-aking in Kenya a form of consensus building that takes account of ethnicity and citizenship? By what means can Kenya's cultural diversity find accommodation within the national political arena and state structures so that the politics of ethnicity do not degenerate into violence and destruction of property and human life? Kenya's experience with these issues is discussed in the subsequent chapters.

The approach considered appropriate for this study is political economy. This approach emphasizes the consideration of the combined roles of political, cultural, economic and class forces in the analysis of social processes. In politics, this theoretical approach identifies the role of people, not merely as individuals, but as members of specific groups, for instance, ethnic groups, classes, patrons and clients, acting in their individual and collective interests. Moreover, the political action of such groups is inextricably tied up with economic, cultural and other relations and activities.

This approach explains ethnic conflict and politics in Kenya as an outcome of many forces: determination of ethnic and class coalitions to maintain political power, uncertain economic circumstances that have prevailed in the country since independence in 1963; competition for the meagre economic and social resources, and ineffectiveness of the existing social and political institutions to resolve conflicts that emanate from competition for resources. The last factor created a vacuum that people struggled to fill by constructing and invoking specific identities to aggregate, articulate and protect their interests. This has resulted in religious, gender, class and ethnic conflicts; ethnic conflicts being the most prominent. It further, necessitated the establishment of often short-lived patron-client networks by Kenya's patrimonial presidents and the rest of the power elite.

Ethnicity as a factor in Kenyan politics has been analyzed by pioneering scholars like Cherry Gertzel (1970), Henry Bienen (1970) and Colin Leys (1977). Among these scholars it was Leys that employed the political economy approach most extensively to analyse the consequences of the convergence and conflicts between ethnicity and class in Kenya during the Kenyatta era. But as has been indicated above, Leys overemphasized the ideological role of ethnicity at the expense of its practical role as an instrument of political and economic mobilization, allocation and control of economic resources. As applied in this research, the political economy approach has been modified to consider, in addition to the ideological content of ethnicity, the influences of local and external economic forces and the establishment of patron-client relationships and networks by the ruling class.

2.4 CONCLUSION

This chapter has reviewed existing literature on ethnicity and evaluated the explanatory usefulness of classical modernizationist, Marxist, social constructionist and citizenship theories. It has been pointed out that no single theoretical approach is adequate for the analysis of ethnicity. A modified form of political economy is recommended as an appropriate analytical tool for this study. This is largely because it allows for a reasonable degree of eclecticism. Class formation, constructions of social and cultural identities, and considerations of citizenship take place within specific political and economic contexts.

CHAPTER THREE

THE COURSE AND ORGANIZATION OF ETHNIC CONFLICT

1.1 INTRODUCTION

This chapter provides a historical narrative of the course and organization of the ethnic violence in various parts of Kenya between 1991 and 2002. The narrative is juxtaposed with the other major political events of the period, particularly the international and internal pressures for political liberation and the responses of the executive and the power elite. The narrative does not only describe how the ethnic clashes occurred but explains the determinants of the trajectory of Kenya's violent and painful transition to political pluralism.

3.2 COURSE OF THE CONFLICT

Ethnic conflicts coincided with internal and external pressure for democratization in Kenya. Their organization and causes can thus be understood within the broader context of the major national political events that were part of, or government's reaction to the process of political change since the 1980s. After the 1982 coup attempt, and particularly after the enactment of the Constitution of Kenya Amendment Act Number 7 whereby section 2A made Kenya a *de jure* one party state, the KANU regime became increasingly personalized and dictatorial (Adar 2000: 15 and Republic of Kenya 1982). Dissent and competitive politics even within KANU was criminalized. To consolidate its position and that of the country's President further, the party, which was synonymous with the government, introduced the queue voting system in 1988. This converted Kenya's electoral process into a system of selecting the party's most loyal members to parliament and civic bodies. It required that electors line up behind candidates during nominations and that candidates who scored more

than seventy percent in the votes did not have to go through the usual process of the secret ballot in the general elections. The queue voting system was inherently undemocratic as it disfranchised a number of potential voters. The state used the provincial administration, particularly District Commissioners (DCs) who were the Returning Officers, to ensure that the 'right' candidates were elected unopposed. Indeed, Kenya's 6th parliament, 1988 – 1992, was the most unrepresentative in the country's post-colonial history.

With the collapse of the authoritarian regimes of eastern Europe, external and internal pressures for democratization increased. External pressures for change came in the form of Structural Adjustment Programmes (SAPs) that were sponsored by the World Bank and the International Monetary Fund (IMF), part of whose conditionalities for disbursing financial aid to Kenya included political pluralism through reforms. Indeed, in late 1991, the United States of America (USA) Congress, concerned with human rights violations and corruption in Kenya and other African countries, passed the Foreign Operations Export Financing and Related Programmes Appropriation Act requiring Kenya to meet certain conditions before economic and military aid worth 15 billion US dollars could be disbursed.

Internally, critics of the authoritarian rule defied the state's refusal to grant license and convened political rallies. At these meetings, the conveners demanded the repeal of section 2A of the constitution and the abandonment of queue voting system. Indeed, in November 1990, Oginga Odinga announced his intention to launch the National Democratic Party (NDP) which was denied registration by the Government. In August 1991 he announced the formation of the Forum for the Restoration of Democracy (FORD), which was again denied registration. These events, though suppressed by the state, constituted a threat that was seen by Moi's closest allies as a threat to the KANU and Kalenjin hegemony.

As a counterpoise to the threat posed by the multiparty advocates, Kalenjin political leaders and their allies in the Rift Valley Province convened rallies on various dates in September, 1991 in Kapsabet,

Kapkatet and Narok towns, respectively (*Daily Nation* 22, 29 and September 1991). More KANU leaders held rallies in October 1991 in Machakos and Mombasa (*Daily Nation* October 8 and 18, 1991). These rallies vowed to counter calls for multi-partyism with *majimboism*, a type of federal arrangement based on ethnicity that was advocated by the Kenya African Democratic Union (KADU) in the early 1960s. The anti-multiparty rallies also threatened to arm their supporters to forcefully evict those perceived to be opponents of the KANU regime from the Rift Valley and other KANU 'zones'. The utterances of the conveners, though quite inciting, were not condemned by the government. This signifies their sponsorship or approval by the regime. What followed close on the heels of the anti-multiparty/*majimbo* rallies were more than a mere coincidence: a series of raids and selective killings, evictions and dispossession of non-Kalenjin communities in the Rift Valley and Western Provinces. It also involved Gusii, Kuria and Luo communities in Nyanza Province between October 1991 and October 1993. These raids appeared well coordinated, organized and executed with military precision (Republic of Kenya, 1992 and 1999a). They occurred before and after the 1992 General Elections and were replicated immediately before and after the 1997 General Elections in parts of the Rift Valley and Coast Provinces. The violence in the Kibera slums in Nairobi that took place in 2001 were perceived as part of KANU schemes. These acts of violence sometimes preceded, occurred simultaneously with or were organised against campaigns for constitutional changes.

The first ethnic clash occurred on October 29, 1991 at Meteitei Farm in Tinderet Division, Nandi District, Rift Valley Province (See the map below). The Nandi raided Kikuyu, Kamba, Luyia, Kisii and Luo residents. Between November 1 and November 5, the raids spread to the nearby Owiro Farm and into the neighbouring Kericho District in Kipkelion, Buru and Thesalia Farms where the Kipsigis raided the non-Kalenjin communities. In late November, the Nandi also raided the Luyia, Luo and Kikuyu in Kipkaren, also in Nandi District, but situated close to the border with Western Province. The ethnic clashes that spread to other parts of the Rift Valley and neighbouring provinces

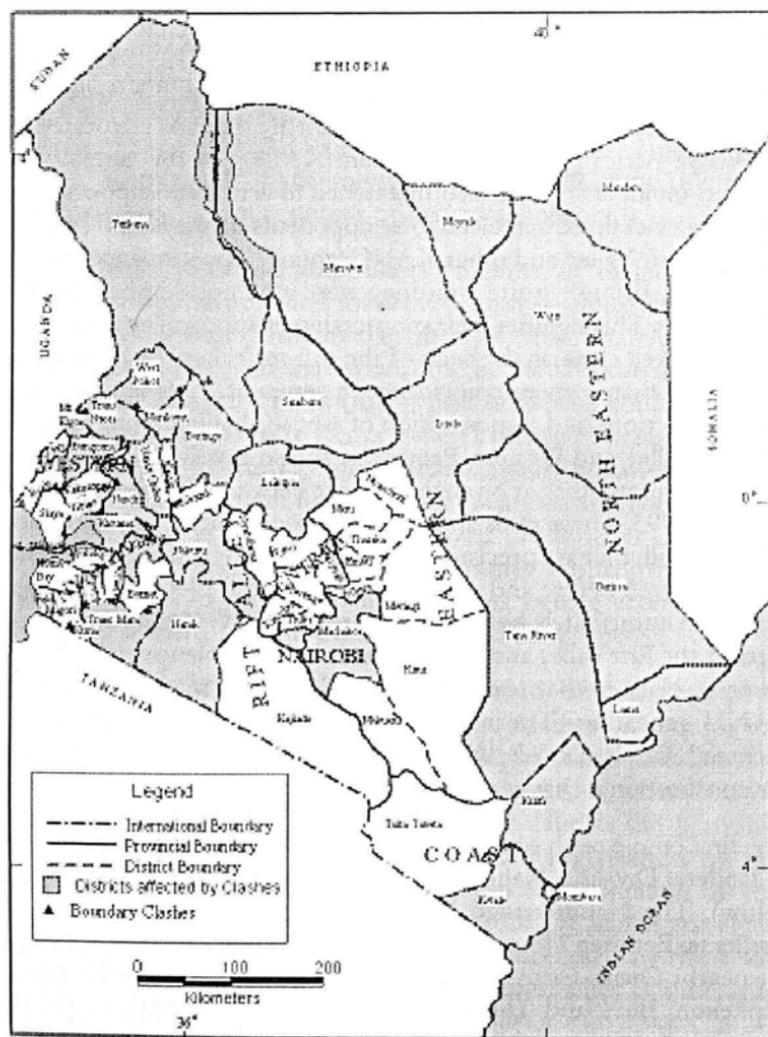


Figure 1.1: Ethnic Clash Areas

commenced, quite in fulfillment of Moi's prophecy that multi-partyism would lead to inter-ethnic conflict.

Meanwhile on December 3 1991, a KANU Delegates Conference recommended the repeal of section 2A of the constitution. This was part of the general recommendations contained in a report of the KANU Constitutional Review Committee that had been established in June 1990 to collect views of the public on Kenya's political future (Republic of Kenya 1990). Parliament proceeded to repeal section 2A of the constitution on December 10 1991. This amendment of the constitution of Kenya became law in 1992, thereby bringing the one-party state to an end. A further amendment stated that "the President should hold office for a term of five years beginning from the date on which he is sworn in as President" and that "no person shall be elected to hold office as president for more than two terms." (Republic of Kenya 1998:9). The other significant provision, Section 5 (2) (f), stated:

The candidate for President who is elected as a member of the National Assembly and who receives a greater number of valid votes cast in the presidential election than any other candidate for President and who, in addition receives a minimum of twenty-five per cent of the valid votes cast in at least five of the eight provinces shall be declared to be elected as President.

It is noteworthy that although the President had served for three terms (since 1978) the law was not applied retroactively. This enabled Moi to serve two more terms of five years each. The repeal of section 2A of the constitution clearly opened the way for the formation and registration of the following political parties: the Forum for the Restoration of Democracy (FORD) led by Oginga Odinga; the Democratic Party (DP) led by Mwai Kibaki; Kenya National Democratic Alliance (KENDA) led by Mukaru Ng'ang'a; and the Kenya Social Congress (KSC) led by George Anyona. Thus the country's politics became openly competitive but also ethnicised because the leaders of the new parties mobilized the support of members of their communities. This, together with the restriction of the presidential

office to two five-year terms and the twenty-five per cent rule, exacerbated the fears and mistrust by KANU and its Kalenjin and other supporters regarding the opposition parties. They were quite unsure of their fate in the country's political future. Indeed Kalenjin politicians and other KANU supporters were reported as wondering why Moi should not be allowed to rule for life like his predecessor Kenyatta had done. If the perceived constitutional amendments were opening up democratic space by legalizing competitive politics, some leaders of the regime were determined to sponsor ethnic clashes to undermine the democratization process since they and the ruling party KANU thrived on existing authoritarianism. They may therefore, have calculated that the eviction of other communities from the Rift Valley would ensure KANU's victory in the elections that were scheduled for December 1992.

The ethnic clashes therefore quickly spread into other areas of the Rift Valley and neighbouring provinces. On March 6, 1992 the Kipsigis attacked the Luo at Sondu market, situated at the border between Kisumu (now Nyando) District in Nyanza Province and Kericho in the Rift Valley; and on 7 March at Buru Farm in Kericho District. Between 14 and 17 March, 1992 the clashes extended to Molo and Olengurone Divisions, Nakuru District, also in the Rift Valley Province. It is reported that Kalenjin warriors raided the homes of Kikuyu, Kisii, Luo and Luyia residents in farms at Kamwaura, Kasimbeiwo, Chamaner, Kipsonoi, Nyota, Temoyetta and Mau summit (Republic of Kenya 1992, 1999a).

By 1992 Molo and Olengurone had become the home of major opposition parties very much like Kwanza, Cheptais and Sirisia divisions of Bungoma district in Western province. The Sabaot and the Pokot attacked the Bukusu and other non-Kalenjin communities in Bungoma and parts of Trans-Nzoia District between March and April 1992. Between March and July 1992, the Maasai were similarly engaged in raids against the Gusii in Kilgoris, Nyamaiya and Nyangusu. On 20 and 22 December, the election month, the clashes in Narok Town and Ol Joro were mostly between the supporters of Maasai leaders, Ole

Ntimama of KANU and Ole Lempaka of DP. But on election day, 29 December 1992, in Enoosupukia trading centre the Maasai turned their wrath against the Kikuyu who supported the DP candidate.

The general elections in December 1992 were the first multiparty elections since 1963. Its major flaws included the fact that the ethnic clashes, since 1991, disenfranchised thousands of people in the affected areas; the ruling party, KANU's machinery was still linked to the government; President Moi's authoritarian powers enabled him to exercise absolute control over parliament; and the electoral body existed at the behest of the executive and KANU. The opposition parties lost in the 1992 elections because of their failure to unite and to field one candidate against Moi. This contributed to the demands for further constitutional reforms to establish a level ground for competitive politics. The KANU regime, on the other hand, encouraged ethnic divisions and clashes to weaken the opposition through disenfranchisement of the latter's supporters. KANU leaders wanted to ensure that Moi got elected to serve his second and last term, 1997 – 2002, and that KANU won the 2002 general elections.

During the first year after the elections, in 1993, tension increased between the Kalenjin and the Kikuyu in parts of the Rift Valley. The Kikuyu were believed to be supporters of the opposition in the province. Consequently, ethnic clashes erupted from the Rift Valley. This was at the Burnt Forest area in Tarakwa Division, Uasin Gishu District, between March and October 1993. Similarly, tension led to clashes between the Maasai and Kikuyu in Narok and Enoosupukia areas in April and October 1993, respectively. It is likely that the Kikuyu inhabiting these areas were being punished for having voted for candidates from opposition parties.

Between 1993 and 1996 the police and other security forces continued to arrest opposition leaders and disrupted their meetings. For example in 1993, 21 opposition leaders were arrested and jailed and many more were picked up for interrogation for holding illegal meetings contrary to the multi-party spirit. The situation worsened after February 1995

following reports about the February Eighteen Resistance Army (FERA) and the February Eighteen Movement (FEM), whose guerillas, based in Uganda and linked to the opposition, were allegedly plotting to overthrow the KANU government (Ajulu 2001:19). It is instructive that the Government never proved that FERA and FEM indeed existed and that they had the capacity to overthrow the government.

Meanwhile the opposition put more pressure on the government for further constitutional reforms in preparation for what they perceived as a more democratic general election in 1997. Earlier in the year a coalition of opposition groups formed the National Convention Executive Council (NCEC) to concert their calls for change. The NCEC organized rallies to articulate their demands and mobilize mass support. Obviously worried about these developments, the government reacted with brutal force, using its police and other security forces to disperse the rallies and incarcerate the NCEC leaders. In the course of time the government initiated talks with a group of KANU and opposition leaders who formed the Inter-Parties Parliamentary Group (IPPG). This group excluded the more radical NCEC. KANU was therefore assured of going into the 1997 elections due in December without substantial constitutional changes. To win the elections, KANU leaders thought it necessary to further evict and disenfranchise potential opposition supporters from certain areas of the Coast and Nyanza provinces.

On 13 August, 1997 groups of Digo youths attacked Likoni Police Station in Mombasa, killed a number of policemen and looted arms. Throughout the month the raiders attacked popular recreational spots such as Itokela Bar, Third World Night Club in Likoni, business premises in Mariakani, Mazaras, the market in Kaloleni and the Catholic Church where the victims of these raids, the upcountry people, had taken refuge. The ethnic violence in Mombasa was intended to evict upcountry people who were believed to be supporters of opposition parties. In October, there was a recrudescence of ethnic clashes in

Kilgoris town and in Nyangusu, Nyoibitinwa and Ramasha markets involving Maasai warriors and the Kisii. The Kuria and the Luo also clashed on the border between Migori and Kuria Districts. The Maasai and Kuria were known supporters of KANU while the Kisii and the Luo supported the opposition parties, particularly the DP and National Democratic Party, respectively. It was from 1997, as explained below, that the traditional cattle rustling between the Pokot and the Marakwet became politicized, commercialized and transformed into large-scale activities. They benefited some influential elite and the Pokot at the expense of the Marakwet who were believed to be supporters of the opposition parties.

KANU won the December 1997 general elections, allowing Moi to serve his last term as provided for by the constitution. Some communities who voted for opposition candidates paid for their action by being forcefully evicted from areas they had occupied since the colonial era. For example, on 11 January 1998, Samburu and Pokot warriors raided Kikuyu residents of Ol Moran in Laikipia District, Rift Valley Province. By January 16, the raids quickly spread to Magadi and other farms and on January 25, Kalenjin warriors attacked Kikuyus at Stoo Mbili in Njoro Division, Nakuru District. The raids quickly spread to nearby Ndeffo and other farms. The Kikuyu organized retaliatory raids against the Kalenjin in Lare as they had done in other places. In these retaliatory raids victims became killers. This turn of events compared well with the Burundian situation where the Hutu massacred thousands of Tutsi who had earlier killed many of the Hutu (Mamdani 2002).

KANU's electoral victory and the ensuing ethnic clashes did not end the clamour for further constitutional change. In the following years, the reform crisis remained unresolved. Mistrust, infighting and lack of consensus on the reform process persisted between KANU and the Opposition, on the one hand, and among the members of the opposition and other reform groups themselves, on the other hand. The pro-reform groups continued mobilizing the masses to force KANU to pass the Constitution of Kenya Review (Amendment) Act

in October 1998. At the same time KANU, determined to stem the tide of constitutional reforms, used brutal force against popular demonstrations for reform. It is said to have sponsored the proliferation of armed urban youth militias, notably *Jeshi la Mzee* (Old Man's Army) to disrupt pro-reform demonstrations and meetings. At the same time, KANU struck a deal with Raila Odinga's National Democratic Party (NDP) in 1999. This formed the basis of the two parties' cooperation that developed into a merger on 18 March 2002. This event served KANU well as the party and the regime were able, with the support of NDP, to control the pace of constitutional reform in preparation for the December 2002 elections. It is in this light that the rent protests in Kibera and the other Nairobi slums such as Kiambui, Korogocho, Kasarani and Kariobangi in the months preceding the elections should be understood. As explained in the next chapter, the protests were economic but also political as most of the tenants in these slums and particularly in Kibera are Luos who are Raila's ardent supporters. The KANU government now in a merger with NDP intervened on the side of Raila's supporters.

3.3 ORGANIZATION OF THE RAIDS

The ethnic clashes in many parts of the country occurred in ways that suggested that they were well planned to appear mysterious, spontaneous and yet intended to produce the required results. The organization of the clashes involved the recruitment and training of the raiders, their provision with arms, instructions on when and where to raid and how to kill and disappear, how to dress etc. From evidence adduced by the Report of Judicial Commission on Ethnic Clashes (Republic of Kenya 1999a) top government officials and some army officers were involved in organizing and executing the clashes.

After the attempted coup d'etat in August 1982 a number of young Kalenjin soldiers in Kenya's armed forces were recruited and taken to Cambodia, Iran, Israel and southern Tanzania for specialized training. In southern Tanzania, African National Congress guerillas were also training to fight against South Africa's apartheid regime. Originally the

purpose of training this militia was to deal with any future threat to the regime and not necessarily to participate in ethnic conflicts, as this was not anticipated at that time. Some prominent Kalenjin politicians, a Chief Magistrate in Nakuru and two majors in Kenya Army were in-charge of recruitment. These trainees were also assigned 'special duties' upon their return. More specifically, they were instructed to kill non-Kalenjins in the Rift Valley and, burn houses while the Kalenjin youth looted their property. Each of these soldiers was paid kshs.1,500/- per head for killing non-Kalenjin males. In addition, they were promised land and plots in urban areas within the Rift Valley upon successful completion of these 'special duties'. They were admonished not to reveal the plot to anybody 'not even a brother', and were further told that if they failed to keep this promise, they would be killed.

In the end, only very few of these soldiers got the 'promised land' while a large percentage of them did not get the land. The latter group felt cheated and guilty for having participated in the wanton killing of fellow innocent Kenyans. Some Catholic adherents voluntarily confessed to the officials of the Catholic Justice and Peace Commission (CJPC) and submitted written confessions detailing their involvement, probably seeking atonement from God. We give a few examples of such confessions, which are recorded verbatim, for illustrative purposes but omit their names and those of prominent persons who participated in the clashes as warlords for security reasons.

PRIVATE X - LANET

I was employed in 1982 and in 1989 I was sent to Iran for further training in military intelligence. During that period, I was called by Major B of 3 KR Lanet. He told me that there was a special mission I had to perform. He further instructed me to meet him at the Rift Valley Sports Club. Later, I was told that if I perform my duties well, would get a reward. In 1991-1992 I was operating in Molo (Kamwiuli Farm) I was being paid Kshs.1,500 per day. Further in the same period, I was instructed by Major C to go to the Burnt Forest to burn houses and kill non-Kalenjins. I was promised a piece of land in Narok after

chasing away the Kikuyus. I was also told to go to Rironi Fram near Kesses in Uasin Gishu district...

WARRANT OFFICER 2, Y LANET

In 1987 I was taken to undergo some training in Tel Aviv, Israel which took one year and three months. In 1989 we were called to meet Hon. D at the Kaptagat hotel with many other officers whom I know. The meeting was addressed by Mr. E. He told us that those who had gone for special training in Tanzania, Iran, Israel and other countries will be given some special assignments within the country. He further said that the task is a big challenge to us and if we want to win we have to sacrifice by being loyal to him and to do what we are told to do without any question.

In 1991 November to December we were called to another meeting which took place at the home of Mr.F. in Meteitei, Nandi District. The meeting was addressed by Mr. M, and many other politicians. The above leaders told us to chase people who have bought or taken our *shambas* (land) first in Kamase, Turbo ...to chase the Luyia and non-Kalenjin tribes.

We were instructed not to use guns but we shall be provided with arrows and simis.

In 1992 we started to kill and burn the homes which the local people identified as belonging to non-Kalenjins. We killed many people during the first raid and the local boys looted their properties.

Our leaders had promised us that after we have cleared this (*sic*) people we shall get some *shambas* in Nakuru and Narok District. Apart from the said *shambas* we were entitled to Kshs.1,500/- a day we were raiding the non-Kalenjin people.

I was in charge of around 125 officers. The operation would last for about two to four hours. I also went for many operations in Molo, Londiani, Koru and Mau Narok in diverse dates...

CORPORAL Z OF LAIKIPIA AIR BASE

I went for further training for 13 months in Cambodia. When I came back, I was told by Major G and Captain H to appear in their office at Lanet 3KR. During the meeting I was told to go and see a Mr. I in Nakuru Waterbuck Hotel.

Mr. I told me to go to the State House and see Mr. J. for further instructions. Mr. J. told me that Kikuyus and other non-Kalenjins should be evicted from Rift Valley.

My operational areas were Molo, Njoro, Mau Narok and some parts of Londiani. I was being paid Kshs.1,500/- and 500/- if we kill a male adult.

During our operation I used to meet Mr. K and Dr. L. I was promised a piece of land at Agricultural Development Corporation (ADC) farm which I never got.

The above are just three of the several individuals who wrote confessions regarding their involvement in the clashes. These confessions, recorded by the Catholic Justice and Peace Commission, Diocese of Nakuru, illustrate the involvement of prominent politicians and military officers in the recruitment and training of Kalenjin soldiers in the Kenya Army in preparation for the ethnic clashes. It is noteworthy that the Judicial (Akiwumi) Commission that later inquired into the clashes never interviewed these soldiers to corroborate their statements.

Those who took part in raids at the coast, namely the Digo and Duruma youths were similarly recruited and secretly trained in the Kaya Bombo forests and near an expansive farm owned by Karmari Pradhon. The training, arming and payment of these youths were financed by prominent politicians and businessmen from the Coast Province. In

other areas like Gucha and Transmara as well as Nairobi, former bandits were reconstituted into militia in the pay of politicians. Oaths were administered on both rural and urban militia to embolden and commit them to the operations for which they were trained.

The raiders in most clash areas used traditional weapons like bows and arrows, spears, machetes, swords and clubs. A few were supported with sophisticated arms such as AK47 and G3 rifles. These were subsidised with arms looted from police stations by the raiders themselves. The raiders appear to have been instructed to use the sophisticated arms very sparingly – only to scare the victims most of whom were killed with poisoned arrows, spears and machetes. This was intended to create the impression that the violence was indeed a clash between local communities rather than an event that was perpetrated by well-trained and armed militia transported into the clash areas in private and government lorries and even helicopters.

Attacks by the raiders were often under cover of darkness during the night. But they sometimes occurred in broad daylight. In all cases, the raiders wore shorts and t-shirts and smeared their faces with clay to conceal their identity and to instill fear in their victims (Republic of Kenya 1999a). The raiders employed well-rehearsed guerilla attacks. They ambushed their victims amidst spine-chilling war cries. The victims were not only killed; they were brutally decapitated, their genitals often slashed away and at times more than 20 arrows pumped into each body. Again, the macabre nature of these killings signified deep hatred and were meant to instill fear (Appaduarai 1998; De Waal 1997; Bassiouni 1997). Further, the attackers burnt victims' houses, looted their property and raped women (Weekly Review January 30, 1998). The raiders also targeted markets, business premises and police stations. The most dramatic attacks of this nature were executed with military precision by the Digo militia in Likoni and Changamwe police stations, Diani Chief's office, Third World and Harambee Night Clubs in Mombasa. The attacks were carried out between August and December 1997. The raiders quite easily overpowered the police, an indication that they were thoroughly trained and were equipped with more

sophisticated weapons.

As mentioned earlier, these raids were often followed by retaliatory attacks by the victims who targeted the perceived raiders, communities and their leaders. The retaliatory raids were widespread throughout the clash areas. It was reported that in one dramatic instance in Molo, arms intended for trained militia's use ended up in the hands of victims who used them devastatingly. The tragic case of retired army Captain Belsoi who was set upon by angry Kikuyu clash victims who killed him on suspicion that he trained and harboured Kalenjin warriors in his house, is just but one example of how known or perceived organizers of the violence were dealt with by the angry communities.

3.4 CONCLUSION

From the foregoing outline of the course and organization of ethnic conflicts, the following observations can be made. First, ethnicity and ethnic conflicts in Kenya have been part of the wider political events that have occurred in the country. The most obvious example is the advocacy for constitutional change, which dates back to the mid 1970s during the debates about presidential succession (Karimi and Ochieng 1980). Secondly, ethnic animosities usually reflect different sides of the political divide representing the ruling elite and their ethnic allies, on the one hand and the opposing group clamouring for change and the capture of state power, on the other hand. Thirdly, ethnic conflicts since 1992 have risen and subsided in response to the rise and fall of the country's political temperature and changes in the temperament and dispensation of political leaders and their views. The organization of the clashes involved prominent politicians, businessmen and military officials who recruited, trained and paid the killers most of whom were recruited from Kenya's armed forces. The causes of ethnic conflicts should therefore be analysed in terms of the realities of political circumstances and the prevailing economic condition.

CHAPTER FOUR

THE CAUSES OF ETHNIC CONFLICT

4.1 INTRODUCTION

Economic conditions, particularly the land issue, are the underlying factors that should be understood in order to explain why political factors quite easily led to ethnic clashes in Kenya since 1991. It is for this reason that we identify the following as the main causes of these clashes: the politics of land and land use systems, competitive politics and bad governance. Other causes include cultural and regional differences, environmental factors, proliferation of small arms, and competition for job opportunities. Using case studies, we examine these issues in relation to why they caused conflicts in three of Kenya's eight provinces namely; the Rift Valley, Coast and Nairobi.

4.2 THE POLITICS OF LAND AND LAND USE SYSTEMS

Being an agricultural country, land is seen as an important source of livelihood by every community in Kenya. Disputes over land tenure system are common in all parts of the country. More often, politicians blame this on the colonial administration and the subsequent post-colonial administrations. The fact that the Rift Valley Province witnessed more ethnic conflicts may be explained in terms of land ownership systems whereby the colonial administration secured the rich agricultural highlands for the white farmers and displaced the local communities. After independence these farms were sold to ethnic community organizations/companies and others allocated to influential individuals without regard to the previously displaced communities.

4.2.1 MOLO

Molo sub-district which includes Mauche, Elburgon, Njoro, Mau Narok, Lare and Molo divisions is a good example. Molo is a highly resourceful agricultural area and a major producer of maize, beans, pyrethrum, potatoes, carrots, milk, hides and skins as well as being the home of the famous Molo sheep from which the 'Turi Mutton' is derived.

The land tenure disputes in Molo started when the Kikuyu ethnic community, through land buying companies, purchased most of the white settler farms. This further alienated the Ogiek (Dorobo), a sub-tribe of the Kalenjin ethnic community who had earlier been displaced by the colonial white farmers. The Kipsigis (Kalenjin) ethnic community who lived close to Molo during the colonial period believed that the land around Molo belonged to them and hence the Kikuyu and other communities who bought land in the area were simply intruders. They even thought that the Kikuyu and other communities should have concentrated on business instead of agriculture. The Kipsigis were therefore unhappy with the unequal distribution of land whereby some of them owned land so little that it was not economically viable. Further, they were incensed by the fact that the non-Kipsigis did not respect their culture and assumed rights over land. They also felt that other communities undermined their traditional values. For instance the Kikuyu and the Kisii immigrants went as far as changing names of places and replacing them with their own names (East African Standard August 13, 1992; Daily Nation August 13, 1998).

Unequal access to land therefore formed the basis of animosity between the Kipsigis and other communities. In a multi-cultural society such as exists in Molo, ethnic tension was further aggravated by the fact that the Kikuyu community had advantage in their numbers and economic power, while the Kipsigis like other Kalenjin communities, had political power. Such ethnic tension provided fertile ground for violence which politicians later took advantage of. Initially, this took the form of theft and other vices, which remained unresolved because they were often condoned by the communities to which the suspects belong. As tension

heightened, the Kikuyu who owned most business even refused to sell essential commodities such as sugar, tea, cooking fat, salt, soap etc to the Kipsigis.

4.2.2 LAIKIPIA

Laikipia district, like Molo sub-district, Trans-Nzoia, Uasin-Gishu and Kericho districts, was predominantly occupied by white farmers during the colonial period. Africans who lived in Laikipia were squatters and labourers who worked on white-owned farms (Kanogo 1987). The majority of these were the Kikuyu who had been dispossessed of their land by the colonial land alienation policy. The obnoxious Residents Native Labour Ordinance of 1937 empowered European farmers to exercise control over the squatters in their farms by minimizing or eliminating their livestock, limiting the number of acres under squatter cultivation and ensuring that squatters worked for them for between 180 and 270 days in a year. The Kikuyu who had almost no other option for a less exacting livelihood only tolerated such legislation. Few people from other Kenyan communities, notably, the Pokot, Turkana and Samburu, also settled in Laikipia. For the Kikuyu and all these communities, even tolerance had limits. It is no wonder that the squatters in Laikipia and other parts of the Rift Valley were at the forefront of the Mau Mau nationalist struggles for independence.

After Kenya's attainment of independence in 1963, land continued to play a central role in the country's post-independence period particularly in the Rift Valley. The Kikuyu who had suffered greater dispossession during the colonial period took immediate interest in acquiring land wherever opportunity availed itself. Land that was formerly owned by European settlers in the Rift Valley immediately attracted attention and became the subject of agitated debate in Kenya's parliament. The resolutions were immediately translated into post-independence resettlement policy, the consequences of which must be understood to explain the violence of the 1990s.

One individual who influenced the resettlement of Africans, particularly the Kikuyu, in former European owned land in Laikipia was Godfrey Gitahi Kariuki (Kariuki 2001). His multiple positions as secretary, and later, chairman of KANU in Laikipia, Member of Parliament (1963 – 1983), Assistant Minister for Lands and Settlement (1970 – 1979), Minister of State in the President's Office (1980 – 1982), Minister for Home Affairs (1982 – 1983) and close confidant of President Moi up to 1983 when he fell out of favour, gave him immense power and influence. From the outset he was an ardent supporter of African settlement on land formerly owned by Europeans. Between 1966 and 1967 he persuaded senior cabinet ministers like T. J. Mboya, James Gichuru, Bruce Mackenzie and the Minister of Lands and Settlement, J. H. Angaine to include Laikipia within the areas scheduled for land purchasing programme. He also persuaded prominent European settlers like P. H. Preston, and Mr and Mrs William Finn Bar MacLellan, to sell their farms to Africans. As a consequence, squatters and labourers started acquiring land in Laikipia in 1968. The majority of Africans, particularly members of the Kikuyu community, bought land and settled in the areas from 1972. Kariuki formed the Laikipia West Farmers' Company in 1973. In this regard he worked in collaboration with other Kikuyu leaders, notably, Kihika Kimani and Njenga Karume.

The company was formed purposely to purchase land from Europeans and settle shareholders on the land outside the framework of government-controlled co-operatives. Kariuki became the company's managing director and chief trustee. Individuals bought shares at Ksh. 1,520 and paid Ksh. 200.00 surveying costs and then acquired 5-acre plots. In 1973 the company bought 51,000 acres of land at Sipili, and in 1974, the company bought 35,000 acres at Ndururumo, 1,800 acres at Leshau, and another 1,000 acres also at Leshau for Nyakinyua Women Group. By 1983 the company had purchased more than 127,000 acres of land and settled more than 20,000 families in Laikipia, almost all of them Kikuyu families. Indeed, the 1970s and early 1980s was a period of land purchasing mania among the Kikuyu. This is the time when a number of land buying companies swindled hundreds of people of

their money with promises of purchases of non-existent land. In this latter aspect, land purchased created intra-ethnic tension amongst the Kikuyu, and between the Kikuyu and other communities who settled there, particularly the Kalenjin, Maasai, Samburu and Pokot. This caused widespread anti-Kikuyu sentiments in Laikipia and the rest of the Rift Valley. These sentiments were accentuated by the fact that the Kikuyu controlled most sectors of Kenya's economy and dominated the state during the Kenyatta and Moi regimes (Ley 1975).

Placed within this context, the violence in Laikipia transcended traditional raids of Kikuyu settlement for livestock by the Samburu. It is also explained in terms of the failure of the Provincial Administration to quell the inter-ethnic clashes as has been argued by Dr. Frank Lijoodi who was a private veterinary doctor in Rumuruti in the early 1990s (Daily Nation, February 22, 1993). It may also be explained as did Jonathan Kiprop Soi, a former District Officer of Ol Moran did when he stated that the Kikuyu were incensed by illegal Samburu and Pokot occupation of their land and these communities' political differences (Daily Nation March 18, 1999). Finally it may be explained in terms of individualistic politics as Kariuki (2002:133-134) asserts when he writes:

With hindsight, it is now clear to me that the conspiracy to allow the invasion of Laikipia by pastoralists had everything to do with my removal from KANU and the political system in 1983 – 1984.

Kariuki's identification of the violence with his personal political woes is admissible especially when he goes on to lament:

Apparently, large-scale and politically-propelled invasion, stock theft and isolated murders as well as destabilization of the Gikuyu farmers started after my political expulsion. Probably this may not have happened had I remained in the Government. (Ibid. p. 134).

Note that Kariuki was a powerful politician in the government. In some cases however individual politicians do not realize that they are and can be used as pawns in a wider political game.

Conflict between the pastoral communities and the Kikuyu which was further caused by differential perception and utilization of resources, was exacerbated and manipulated by certain individuals in power for their own end. This is why the explanation by Catholic Bishops (Weekly Review (WR) January 30, 1998:7) that the initial conflict between the pastoral communities and the Kikuyu “was a trap to engage them (Kikuyu) into a war they were going to lose”, may be looked at as political. The Bishops add a very significant point to their explanation: “the mode of the attacks and the manner of killing is clearly calculated to cause panic among a certain community so that they leave their homes” (WR, January 30, 1998). And the local parish priest, Father Bureau Sandro hit the nail on the head when he told the Akiwumi Commission that the Ol’Moran clashes were meant to create an electoral base which must be made as solid as possible by the evil practice of shedding blood (DN February 9, 1999; East African Standard, (EAS) February 9, 1999 and February 11, 1999). Father Sandro’s contention was that the violence in Ol’Moran was the work of mightier individuals than the pastoralists and the Kikuyu peasants who were not capable of the large-scale military organization and operations. He also accused the state of complicity in the violence because of its reluctance to quell it and the hostility of its agents to the local church where the victims of violence took refuge.

4.2.3 MARAKWET DISTRICT AND EAST BARINGO

The Marakwet and Pokot conflict resulted from different land use systems and competition for scarce resources. The Marakwet District which was created from the old Elgeyo-Marakwet District largely covers part of the Elgeyo Escarpment, the Kerio Valley and a small part that extends to the former White Highlands. The area is endowed with plenty of water resources and rich agricultural soil whose potential has not been exploited to the optimum. This is partly because of poor communication network. The district does not have an inch of tarmac road. It has no electricity, although the Turkwel electric power lines pass through the district from north to south. Telephone services cover less than a quarter of the region. The Marakwet ethnic community are

the sole inhabitants of the district. This is one of the districts in Kenya which is occupied mainly by one ethnic community.

The Marakwet community, border the Pokot who inhabit East Baringo in Baringo district and the West Pokot District and the Turkana to the north. The Marakwet neighbours live in drier territory and engage mainly in pastoralism, although they also practice agriculture. The relationship between the Marakwet and their neighbours has been unfriendly as the communities engage seasonally in cattle rustling.

Being a pastoral community, the Pokot place great value in livestock and in particular, the number of cattle they possess. They use them for food as well as a measure of wealth and a medium of exchange. Significantly, cattle are used to pay pride wealth. The young Pokot men, therefore, grow with the belief that to be a hero in the community, one has to have as many cattle as possible. With very low educational investment in the Pokot territory, the community has not changed significantly since Kenya's independence in 1963. Idleness among the youth is high. Like the Maasai, the Pokot believe that it is their right to own cattle which should be acquired by raiding their neighbours' cattle. The Marakwet, being the immediate neighbours of the Pokot, have had to contend with the aggressive nature of their adversaries. They (Marakwet) organized retaliatory raids whenever their cattle were raided. This has made cattle rustling a cyclic phenomenon in the region. Unlike the Marakwet, the Pokot live in a harsher environment; drier without enough pasture and water. During the dry season, the Pokot usually move their livestock outside their territory in search of water and pasture. They negotiate with neighbours during the dry season except when they want to provoke them.

A recent study revealed that there is an influx of small arms, mainly AK47 and G3, from Uganda and the Sudan into the Pokot – Marakwet territory (Kamenju, Singo and Wairagu 2003). Most of these weapons are in the hands of the Pokot. The government also supplies fire-arms to the homeguards of both communities, thus increasing the proliferation of small arms in the region. This has made cattle raiding more prevalent and sophisticated. The Marakwet-Pokot ethnic conflict

in 1992 was partly associated with this arms influx. The 1992 and 1997 – 2001 conflicts which involved the Marakwet and the Pokot appeared to be different from the traditional cattle rustling viewed from the perspective of their intensity and impact. In this unique event that occurred in 2001, the Pokot raiders not only took away large herds of livestock but also killed 56 people (men, women and children) from the Marakwet community (KHRC 2001). In normal cattle raids the Pokot do not kill women and children.

Politics played a leading role in the Marakwet- Pokot conflicts in 1997. In a field survey carried out in Marakwet for this research, most respondents claimed that politics played a major role in the conflict with the sole purpose of displacing the Marakwet who had voted for the opposition in the 1992 general elections. The ethnic violence was therefore seen by the Marakwet as government instigated to punish and disenfranchise them. It is however interesting to note that all the Pokot respondents who reside in Marakwet territory did not associate the ethnic conflict with politics.

The Pokot attacked the Marakwet in 1997 when ethnic violence was widespread in other parts in Kenya prior to the general elections. According to the Pokot who were interviewed the Marakwet started the violence by killing a Pokot man at Tot Division. This made the Pokot retaliate thus sparking off the conflict. The Marakwet respondents concurred with this by stating that the Pokot started the violence by revenging on the Marakwet who raided their cattle. The Pokot raiders who had better weapons than the government security forces exacerbated the conflict. It may be more convincing, to say that it was more government laxity than the inferior weaponry possessed by the security forces which prolonged the conflict.

The organization of the 1997 violence makes politics a relevant factor. The violence was well calculated like the biblical Passover where the children of Israel were spared from the wrath of the angel because they smeared blood on their door posts. In the Marakwet case, those who put KANU posters on their doors as a sign of identification were

spared by the raiders. Surprisingly, and as if to conform with the biblical scriptures, most of the killings of the Marakwet took place on Christmas day in 1997 along the Kerio Valley. Some of the killings were said to have taken place in 2001 only 200 metres away from a General Service Unit camp. The General Service Unit is a paramilitary group renowned for their superior skill, bravery and ferocity and yet they did nothing to contain the situation.

Our field interviews also revealed that the Marakwet councillors and elders urged their community to arm themselves so that they could revenge and get back their stolen livestock. It was further reported that in some cases, politicians from both sides helped to acquire bullets and buy arms for their respective communities, and they also provided market for the stolen livestock. From the foregoing it can be concluded that the Marakwet-Pokot ethnic violence was incited and sponsored by local politicians from both communities.

4.2.4 COAST PROVINCE

The Coast Province depicts a similar problem of ethnic conflict whose source is land related. The coastal communities do not hold any legal claim to their areas of settlement, yet, this is their ancestral land. The majority of the people interviewed for this study at the Kenyan coast, whether indigenous or upcountry conceded that, indeed, the majority of Mijikenda (local) communities did not hold title deeds for their land. Instead, most land is owned by rich and well-connected individuals from upcountry, Arabs and other Asian immigrants.

The land problem at the Coast should also be understood in an historical perspective. The unequal distribution of land at the coast dates back to the colonial era when the ten mile coastal strip, initially under the control of the Sultan of Zanzibar was later preserved by the colonial government. This strip constitutes the most prime land in the coastal region. After independence, successive governments gradually allocated this prime piece of land to citizens who applied for land and plots for residential and business purposes. But it should be noted that the allocation favoured rich and influential people, the majority

of them from upcountry communities. Many allottees developed the land given to them into various tourist attraction facilities such as hotels, clubs, shopping malls, filling stations, residential complex etc. Others left theirs idle, for example a Mr. Kamau who owns more than 1,000 acres in Likoni, most of which is fallow. Squatters from both upcountry and local communities settled on this land, and vowed not to quit. A legal battle has been going on between squatters and Kamau for some time.

Senior provincial administration officials who were interviewed stated that the imbalance in tourist plot allocation between the coastal and upcountry communities (tribes) was occasioned by the fact that most of the individuals from coastal communities who were allocated land sold it to upcountry businessmen. Thus the current imbalance was a creation of the coastal communities themselves. This contention is however erroneous. Provincial Administrators involved in land allocation were biased. Even if some coastal people sold their land to upcountry people, the number may be considerably low, relative to the percentage of those originally allocated land. It is worth noting, for example, that at independence, 90% of land in Kwale district was trust land and belonged to the state. This land was eventually allocated to a large number of influential upcountry people for settlement in schemes such as Diani Complex, Diani Settlement Scheme, Shimoni and Matuga Settlement Schemes and even Mpeketoni Settlement Scheme in Lamu district. Though locals also benefited from such allocation, a disproportionate number of upcountry communities were given large tracts of land in these areas. This land imbalance is a major source of serious resentment among the Coastal communities towards the upcountry people.

Limited job opportunities and regional nationalism also aggravated the existing land tenure question. In Kenya, it is generally believed that the distribution of both private and public sector job opportunities has always taken an ethnic dimension. Ethnicity plays a central role with regard to who gets what job in Kenya. This is due to the politics of patronage and personal rule clearly perfected by the county's political

leaders over the years. Through patron-client networks, senior politicians use their influence to distribute jobs, scholarships, training etc to their relatives, kinsmen and friends. As long as one comes from the “right tribe” or is well connected politically one can sometimes acquire a job of one’s choice in Kenya (Muigai 1995). As the saying goes ‘technical know who’, rather than ‘technical know how’ is the most important criteria for getting a job.

At the coast, the situation with regard to job distribution mirrors other areas of the country. Upcountry people, hold key jobs in government departments and parastatal organizations leaving the locals to do mostly manual work. At the Kenya Ports Authority, for instance, upcountry people held most of the key positions before the 1997 clashes. This was a serious grievance among coastal communities and a cause of resentment towards upcountry communities who were seen as impediments to the formers’ enjoyment of what they consider rightfully theirs. In interviews with hawkers in Likoni, a majority of the respondents complained that upcountry people operated most businesses, both large and small. Out of the twenty-six photographers who operated on the Likoni side next to the Indian Ocean in 2002, only 4 were indigenous. The rest were from upcountry. However, upcountry communities claimed that the local people were lazy and lacked initiative to operate business. They also charged that coastal communities lacked technical and professional education and therefore, should not complain when upcountry people were hired on the basis of required qualifications and experience.

A kind of regional nationalism was a subsidiary cause of conflict. First, the clamour for “*Majimboism*” gained popularity among the majority of the coastal people. They saw Coast Province as having been invaded by “outsiders”, consisting of Arabs, Asians and upcountry people. These sentiments were enhanced by the fact that most businesses, as well as jobs and other means of livelihood are in the hands of the non-indigenous communities. This view was well articulated by a Likoni resident interviewed on 27/03/02:

Most local resources are in the hands of the upcountry people, Indians and Arabs, leaving indigenous coastal inhabitants as paupers in their own backyard. The government seems to be interested in us when elections are around the corner.

Another cause of contention between the locals and upcountry people at the Coast relate to the stereotypical claim by the former that indigenous coastal people are unenterprising, lazy and lacking in initiative. The fact that few indigenous people hold professional positions was casually dismissed by upcountry people as the result of laziness. But the most convincing cause of resentment is to be found in the states' continuous marginalization of the region in areas of education, healthcare, infrastructure etc. For instance, Khalif Khalifa, the director of Muslims for Human Rights (MUHURI) in Mombasa pointed out:

...out of the 180 practicing lawyers in Mombasa, only 40 are from indigenous coastal communities. In addition, 80% of large and small business enterprises are owned by upcountry individuals/companies who form only 10% of the population.

Thus, deprivation gradually helped generate deep feelings of hostility in the coastal Communities towards "foreigners".

The Pokomo – Orma relations in the Coast Province deteriorated owing to the political incitement of the two communities beginning in 1996 and towards the 1997 general elections. It degenerated into armed conflict when the Ormas started grazing their animals on the Pokomo crops with impunity. In some cases, they even provoked the Pokomos by slashing their crops purposelessly. For example, an elderly Orma man declared during a reconciliation meeting thus:

We shall continue grazing our animals freely because the Maasai do it even at the State House". (Coast Peace Initiative Interfaith Council of Clerics 2001:9).

It is not known exactly what ignited the violence that erupted in the region in 1996-97 and 1999-2000. Both communities blamed each other for starting the violence. What is however clear was that each incident followed another because of revenge attitude. For instance, it is claimed that when the Orma killed a 30-year-old Pokomo at Nduru village, the Pokomo responded by burning Orma houses. They also burnt an Orma village at Marafa to revenge on another attack on their Shirikisho village. It is also reported that the Pokomo killed a pregnant Orma woman in Ngao in retaliation for the killing of their own. It appears that the most prominent incident which could have caused the violence between the two communities was the killing of a Pokomo Agricultural Officer by the Orma. In addition, the Orma beat a Pokomo Assistant Chief and robbed him of his goats. This was followed by an immediate retaliation by the Pokomo who stole thirty six cattle from the Orma. The bad relations between the Orma and the Pokomo were worsened by Government's policy of land demarcation in the area. The pastoralist Orma were completely opposed to this policy on the grounds that it would restrict their grazing fields.

Related to land and ethnic politics in all parts of the country is how some parts of government forests and government agricultural land and beach plots were allocated to senior government officials and the rich and powerful members of Kenyan communities. This caused more animosity among the communities as the allocations were considered by them to be corrupt. Tension rose further between local ethnic communities and those who benefited from such allocations.

4.2.5 KIBERA, NAIROBI

Ethnic violence broke out in Kibera slums, Nairobi, between late November and December 2001. The violence pitted mainly the majority Nubian community against the Luo and other Kenyan ethnic groups resident in the area. To explain the causes of the violence, it is necessary to outline briefly the historical background of the settlement in Kibera.

Kibera is one of the oldest slums in Nairobi with an estimated population of between 750,000 and 1 million people. The area on which Kibera is situated was one of the grazing grounds for the Maasai. The British colonial government took over the area and turned it into a military reserve. It is here that soldiers of the King's African Rifles (KAR), a troop of indigenous men, were trained. This group later became the British army's rearguard and Carrier Corps. The Nubian community was prominent members of the KAR. They are a Nilotic group whose origin is in the Sudan. After the World War II, Nubians were allocated land at Kibera as a reward for their war efforts and were given temporary permits to allow such occupation. For a long time, the Nubian hopes of being granted land ownership rights in Kibera were kept alive. Both the colonial British and the post-colonial Kenya governments made constant commitments to settle them elsewhere should the state need the land for other purposes. As of today, the Nubians have neither been granted title deed nor have they been settled elsewhere.

In the late 1950s and 1960s, other Kenyan communities moved to settle in Kibera. The Kikuyu came in first in the 1950s while the Luo and Luyia settled there in the late 1960s. The Nubians took advantage of the arrival of these communities by constructing temporary rental houses using timber, mud and iron sheets to meet the increasing housing demands. Population pressure pushed the demand for cheap housing higher and the Kibera slum expanded rapidly.

Apart from ethnic composition, Kibera has three resident sub-classes with conflicting interests. There are temporary residents, most of whom are tenants who expect to move out should their economic situation improve. Of this category, the majority are drawn from the Luo, Luhya and Kamba communities. They pay rent monthly, reside in Kibera but own no structures or any other permanent property in the area. The second category comprises permanent residents, most of whom are Nubian community members, the founders of Kibera who settled in the area about 100 years ago. These people claim total exclusive ownership of the land on which Kibera is situated. The third category

of Kibera residents is from the Kikuyu community. Many of them are landlords who bought land from Nubians; others run businesses. For the Nubian community and other landlords, rent is an important source of livelihood. The majority of tenants in Kibera are people of very low income who can only afford to pay very low rent.

Like other slums in Nairobi, Kibera has very poor facilities. On numerous occasions, leaders in Kibera called on the government to provide sewerage facilities, collect garbage, install power and improve infrastructure in the slum and provide health and other social amenities. The government has hardly heeded these requests. It is the international and local NGOs and Community-Based Organizations (CBOs) that have come to the residents' aid and provided basic facilities like clean water, clinics, and schools. Often, this is done by mobilizing local residents. Though these efforts have helped, Kibera remains one of the most densely populated, crime prone, dirty, and poverty stricken areas in Nairobi.

It is also worth noting that as the population in Kibera grew over the years, with its attendant pressures and demands on limited land and other resources, tension often flared amongst the diverse communities. The Nubians see the other migrant Kenyans in the area as intruders while on the other hand, the other communities like the Luo and the Kikuyu perceive the Nubians as foreigners. Thus before November 2001, several clashes had occurred between members of the different communities though without necessarily being manifested in serious ethnic conflict.

Another important issue to note is the fact that, in Kibera which is part of Langata constituency, politicians always struggled to exploit the large number of voters during national, civic and parliamentary elections for their own advantage. Traditionally, the Nubians were staunch adherents of the then ruling party, KANU while the majority of the other communities, particularly the Luo, the Kikuyu and the Luyia were staunch supporters of the opposition political parties since the advent of multi-party politics in the country in the early 1990s.

The Kibera violence, and the circumstances surrounding it, were couched in heavy political and ethnic overtones. All accounts of the genesis of the violence pointed out that the clashes were sparked off after a visit to Kibera by the former President of Kenya, Daniel arap Moi in the company of the area Member of Parliament, Raila Odinga in November 2001. During the visit, the president, in his address to the residents, announced that the land on which Kibera slums was built was government land and that “landlords” should therefore not charge exorbitant rent. The president further directed the Nairobi Provincial Commissioner to ensure that since “landlords” do not pay rates to the Nairobi City Council and do not own land in Kibera anyway, they should be considerate to tenants when charging rent. In other words, the President directed that “landlords” should immediately reduce rent. A few days after the presidential visit, the Provincial Commissioner (PC) called a *baraza* which was attended and addressed by, among others, the PC and the area MP, Raila Odinga of National Development Party (NDP) as well as the KANU’s only MP in Nairobi, Fred Gumo. During this meeting, both Raila and Gumo declared that residents should henceforth pay half the usual rent of between Ksh. 800.00 and Kshs.1,000.00. Two committees were established; one comprised “landlords” and the other “tenants”, to deliberate on the question of rent reduction. The tenants proposed a 50% reduction in rent as called for by the politicians while the landlords agreed to reduce it by 25%. Thus, conflict flared between the majority Nubian landlords and the rest of the communities, mainly the Luo. In the ensuing violence, an unspecified number of people were killed (Government reports indicated seven people died while residents put the number at over 15 people). Houses were also burnt and property destroyed including the NDP office in Mashimoni.

Thus, while it can easily be concluded that the issue of house rent was the immediate cause of ethnic conflict in Kibera, other factors also contributed to the violence. The main underlying factor was the land tenure system. In Kenya, land is a very thorny issue and the manner in which the government has handled its allocation and distribution has often exacerbated tension amongst its citizens.

Prior to the violence, the Government had promised the people of Kibera that they would soon be issued with title deeds. Teams of surveyors had been sent to Kibera on numerous occasions to demarcate the land. People were issued with plot numbers and promised a speedy land registration process. This always happened when elections were due. Things then returned to normal soon after elections. Nothing concrete on legalizing land ownership in Kibera has ever been effected by the government. Consequently, the Nubians and communities residing in Kibera have remained unhappy with this situation.

Another factor that should be linked to ethnic conflict in Kibera relates to the problem of widespread poverty and marginalisation of the people by the state. Many residents attribute their state of poverty to the failure of the government to provide an enabling environment for job creation and infrastructural development. A twenty six year old male polytechnic graduate who had been jobless for a year at the time of our field research remarked thus:

The government has failed to provide jobs for many of the country's youth who are in the streets looking for unavailable job opportunities. Politicians are only keen to help their kinsmen to get jobs. If you are not from a "politically correct" tribe then you can't get a job in Kenya!

These sentiments were echoed by a majority of those interviewed in Kibera and elsewhere in the country. People perceived the KANU government as corrupt, tribalistic and not interested in fostering unity and national development, but are keen only to plunder the country's resources through patronage and clientele networks that kept the poor further away from national resources. Nevertheless, Nubians in Kibera were seen by other communities as favoured by the KANU government even when in fact, they suffered from similar problems as the rest of Kenyans. Likewise, the Luo, Luyia, Kikuyu, Kamba and Kisii considered themselves marginalized by the KANU government on account of their support for opposition parties.

The other factor that explains ethnic conflicts in Kibera is politics. President Moi's remarks which were considered to have ignited the November 2001, violence can be analysed in the broader perspective of his co-opting of Raila Odinga's NDP into the KANU fold. In this context, Moi was seen as campaigning for Raila and was particularly keen to win the support of the large number of "tenants" (Luo) resident in Kibera. One resident remarked thus:

The initial presidential announcement about rent reduction must be seen in political terms. Moi spoke in support of Raila's supporters in Kibera within the context of the proposed merger (since concluded and broken) between KANU and NDP.

A Kikuyu resident of Laini Saba who has lived in Kibera for the last 24 years and who was interviewed on 21 February 2002 attributed the Kibera conflict to bad governance in the following words:

No one exactly knows how the Kibera clashes started. The person who began the problem is the area MP (Hon. Raila Odinga) who is also seeking re-election. There is intense political competition. What happened here is like what happened in Molo in 1992 – 1993. Right now there are many people coming in daily and registering as voters in Kibera. There is a likelihood that the clashes might erupt again. The problems that occurred here last December may have been a move to test what can happen in future. No one was arrested after the clashes. These are political clashes. I have tenants myself, but I have never had any problems with them, yet they come from different communities.

4.3 BAD GOVERNANCE

What exacerbated the situation and ignited the tinder of division in the last instance was bad governance, which dates back to the Kenyatta regime in the 1960s. Bad governance manifested itself in state corruption through outright theft and plunder of public resources by civil servants, political intolerance by the ruling party and its leadership, failure by the government to provide security to its citizens, political

assassinations, economic stagnation and general under-development fuelled dissent from leading politicians keen to see a reformed political landscape in the country. The government viewed those who belonged to this pro-change group as traitors. Many were detained without trial; others were jailed for long periods on trumped-up charges. The fact that the leading lights in the growing campaign for change were individuals belonging to the Kikuyu, Luo and the Luyia communities helped the KANU government to find justification for dealing ruthlessly with the pro-change campaigners by portraying them (and by extension their ethnic communities) as enemies of the Kalenjin ethnic cluster, and the other smaller tribes in the country. By early 1990s, when the clamour for multi-party democracy peaked, the country had already been polarized into various conscious independent adversarial conflicting ethnic groups. Political parties that emerged soon after the introduction of multi-party politics and were legalized in 1992 became little more than ethnic groupings, courtesy of the divisive tactics of the ruling class, through bribery and intimidation. As Osamba (2001) noted, the 1990s drive towards Western Liberal Democracy engendered the polarization of particularistic groupings, as parties crystallized, mostly on the basis of ethnic and regional interests rather than common ideology or political principles. Indeed, concerns about corruption and bad governance climaxed in the 1990s when the Kenya government became increasingly authoritarian. Ethnicity was used by those in power as a political constituency needed to maintain or gain political power. It was this that heralded the genesis of inter-ethnic suspicion and mistrust, and eventually, inter-ethnic conflict (Osamba 2001). Osamba further argues that ethnic conflicts in Kenya appear to be the inevitable consequences of unresolved political and economic contradiction behind an apparently partisan political system. Anyang' Nyong'o (1993) notes that political conflicts generally radiate around the imperative of accumulation and the problem of legitimization.

The same way the two previous regimes in Kenya have been dominated by personalities drawn from the same ethnic group as that of the incumbent president, so has corruption and the fight against it taken ethnic lines. This trend has persisted into the present NARC government led by Mwai Kibaki.

4.4 CONCLUSION

In this chapter, we have analyzed the role of the following factors in the upsurge of ethnic conflict in our case studies. First, the politics of land and land use systems including competition for resources have been stated to be a major underlying or long-term factor predisposing different communities to the potential of conflict. Second, underlying economic factors include the unequal distribution of jobs and facilities such as schools, hospitals and roads. Increasing poverty of the majority of Kenyans, mostly caused by the mismanagement of the domestic economy and the deteriorating global economy worsened communal tension. Third, conflicting ideas about the best form of government in Kenya since the late 1980s contributed to political polarization between those who favoured a strong central government and those who preferred *Majimbo*, a form of ethnic federalism, single party and multi-party advocates, supporters and opponents of KANU and finally those who wanted President Moi to rule for life and those who wanted his tenure of office ended by constitutional reform. Finally it has been argued that what worsened the situation and sparked off the ethnic conflicts was bad governance in which political leaders played a prominent role with devastating consequences.

CHAPTER FIVE

CONSEQUENCES OF ETHNIC CONFLICT

5.1 INTRODUCTION

The ethnic clashes in Kenya had far reaching political, social and economic consequences. Some were short-term while others were long term and will be felt in the country for many years. Generally, the impact was negative and will constitute a challenge to the country's leadership for many years to come.

5.2 POLITICAL CONSEQUENCES

It can be argued on the basis of the general and presidential election results of 1992, 1997 and 2002 that ethnicity and ethnic clashes influenced the voting patterns in Kenya's eight provinces. The table below shows that in the 1992 election, Moi of KANU was elected president by 40% vote and polled over 25% of the votes cast in five out of the eight provinces. It is noteworthy that he garnered 71% of the total votes in his home province in 1992. He also won by 42% of the total votes cast in 1997 with 69% of total votes cast in the Rift Valley. This is the province where his community, the Kalenjin, is predominant. Although the Rift Valley is a cosmopolitan province, the displacement of non-Kalenjin communities just prior to the elections guaranteed Moi a more secure victory. It is also notable that in 1992 Kenneth Matiba of FORD-Asili, and Oginga Odinga of FORD-Kenya similarly garnered their highest percentage of votes from their home provinces i.e. where their own ethnic groups predominate.

PRESIDENTIAL VOTES BY PROVINCES – 1992, 1997 AND 2002 IN PERCENTAGES

Provinces	1992					1997					Others	Kibaki NARC
	Mi KANU	Mitcha ROBO ASILI	Kisumu Democratic Party	Orange Orange Ford Kenya	Others	Mi KANU	Kisumu Democratic Party	Ruta Odinga NIP	Wambara Ford Kenya	Ngulu SIP		
Nairobi	16	44	18	20	2	20	43	17	7	11	2	76
Central	2	60	36	1	0	6	89	0.6	0.3	3	2	69
Nyeri	15	1	6	75	1	23	15	57	1.6	1.6	1.6	61
Western	38	37	2	17	2	45	1	2	48	0.4	3.6	76
Rift Valley	71	16	7	5	1	69	21	2	6	0.6	0.6	43
Eastern	37	10	50	2	1	34	28	0.7	0.6	34	2	73
North East	75	11	5	8	1	73	21	0.3	5	0.5	0.5	29
Coast	62	11	10	14	3	62	13	7	3	9	6	63
Average	60	24	17	18	1	42	29	11	9	8	2	61

Source: Daily Nation, (2002) Elections Special, December 30, 2002 Charles Hornsby (2001:40); Ndegwa (2003:148) and authors' calculations.

In the 1997 general elections, Mwai Kibaki who was the only credible presidential candidate from Central Province got 89% of the votes cast in his home province where the Kikuyu were the absolute majority. The other presidential candidates, Raila Odinga of NDP, Michael Wamalwa of Ford Kenya and Charity Ngilu of SDP similarly led in their respective home provinces.

We are, therefore, inclined to agree with Oyugi's (1997) contention that ethnicity is a major force which influences the behaviour of voters. It is also noted that there was more ethnic violence (ethnic clashes) during the 1992 and 1997 elections which politicians used as a means of uniting their communities into voting blocks and at the same time to displace those from other ethnic groups who would have formed opposing voting blocks. Ethnic conflicts created ethnic based political zones in the country. The then ruling party, KANU politicians declared certain regions of the country "KANU zones" ostensibly to keep away other parties. In some cases, the opposition parties entered into the same trap and created their own zones.

The threats and actual violence made related tribes unite and vote as a block against opposing communities. In the coastal region, for example, the Orma and the Galjeel who are believed to have the same origins and culture united and voted as a block against the populous Pokomo. This was a time when the Pokomo looked at themselves as the indigenous community and were attempting to evict the other two groups under the guise that they were foreigners from the neighboring country of Somalia. It was this unity that enabled a member of the Orma community to win the 1997 parliamentary elections despite the fact that some of them were denied identification cards and/or were even declared non-citizens, arrested or were just denied the right to vote.

The whole of the coastal region of Kenya witnessed the displacement of voters in 1992 and 1997 as a result of ethnic conflict. It should also be noted that voters whose origins were upcountry "Wabara" were

the main targets of organized violence. In an attempt to resolve the violence, Non Governmental Organizations and local churches helped victims relocate to their upcountry homes. This fulfilled the intention of the actors of the violence whose aim was to evict non-coastal communities who would have voted in a way unfavourable to their communities. Displacement of voters, therefore, “provided a convenient cover to politicians who were uncomfortable with the voting strengths of up country people ...” (WR – Sept 4, 1998:6). The clashes in Likoni and other coastal areas in 1997 influenced Moi’s and KANU’s electoral victory in Coast Province at a time when opposition candidates who would have posed a challenge were denied influence there by the violence. In 1992 these parties had not penetrated the province.

In the 2002 General Election, KANU lost heavily to NARC. There were a number of reasons for this. First, Moi was no longer a presidential candidate, having served his full term as provided for by the 1992 constitutional amendment. He was, therefore, unenthusiastic to use state machinery, resources and other means including ethnic clashes to secure victory for KANU and his successor Uhuru Kenyatta. In any case the instigation of ethnic violence would have been most imprudent given that the two previous reports by commissions appointed to inquire about the clashes had unabashedly implicated the KANU regime and its leaders. Further, the manner in which Moi selected his successor Uhuru Kenyatta was most undemocratic and forced a number of KANU stalwarts to quit the party and join the opposition. Finally, the opposition parties had learned a bitter lesson from their disunity and defeat in the 1992 and 1997 elections. They resolved to forge unity through a multi-ethnic party coalition, NARC. In the subsequent elections, KANU secured a lower percentage of votes than in previous elections in areas which had been most affected by ethnic conflicts. Significantly, ethnicity continued to influence the voting patterns and the results of the elections in 2002. KANU garnered the highest percentage of votes in its traditional stronghold, the North Eastern Province, which was largely inaccessible to the opposition parties and in the Rift Valley where Moi’s Kalenjin community never challenged his choice of Uhuru Kenyatta as his

successor. A presidential candidate, Simeon Nyachae of Ford People, got overwhelming support from his Gusii supporters enabling him to get 30% of votes in Nyanza Province. The power elite from other provinces like Nyanza, Western, Eastern and Coast who were allied to NARC's presidential candidate, Mwai Kibaki, also influenced their communities to vote overwhelmingly for NARC. People were fed up and needed change. They had also seen ethnic clashes, corruption and the collapse of infrastructure and institutions.

Even though ethnic clashes (political tribalism) helped KANU win the General Elections in 1992 and 1997, they displaced and disenfranchised thousands of potential voters thereby denying them the opportunity to exercise their democratic and citizenship rights. It is noteworthy that moral ethnicity saw KANU's defeat. On the other hand, the NARC regime is increasingly becoming beset by negative political tribalism.

5.3 SOCIAL CONSEQUENCES

It is important to note that the displacement of persons as voters also led to negative social consequences. Fear, hatred, blame and anger were instilled among communities. A Mr. Stephen Wambua, for example, informed the Kenya Human Rights Commission (KHRC 1998:39) that:

Many of us heard that we would be attacked again if we dared return (to their homes). So, what is of greater value, life or voting? So, we just decided to leave that matter (of voting) alone.

This fear among ethnic communities, especially those who were affected by clashes, was translated into bitterness and lack of mutual trust and confidence. This can best be illustrated by the description of the fate of one victim, Lucy Nyambura, who faced double displacement. Lucy was displaced from Molo (in Rift Valley Province) in 1992 after losing her infant. She sought refuge in Coast Province and five years later in 1997, she was again rendered homeless. According to the KHRC, Lucy has now been left wondering whether there is anywhere in the country

where she could go to rediscover some security and stability for herself and her children. In some cases, the hatred and lack of trust emanated from widespread rape and torture of victims. Reports indicate that during the violence, raiders from one ethnic community raped the women and girls of the other community. In some cases, the security forces raped the victims whom they were supposed to protect as was mentioned among the Galjeel women in the Coast Province. Consequently, these victims suffered psychological trauma and developed hatred for the community, which the rapist was believed to hail from (MUHURI 1999:40). A Mr. Kalasinga from the Pokomo community and who was interviewed by the MUHURI organization, had this to say:

I speak bitterly because people here have suffered. Before the 1997 general elections, in towns like Maziwa, Seylon, Hewani, people were raped, male and female alike: father, mother, child, they were all raped.

During an interview we carried out in August 2002 among freelance photographers stationed at Likoni ferry, all of them predicted a repeat of violence at Likoni during the days leading to the December 2002 general elections. This fear is seen as the reason for the low turn out in the 1997 general elections in some parts of Coast Province as compared to 1992. In its report, "Kayas Revisited: A Post Election Balance Sheet (1998)", the KHRC attributes this apathy to the fact that many displaced persons failed to return to the constituencies where they had been registered. However, the fact that the KHRC noted that the most affected in the coastal areas, for example, include Ujamaa and Maweni sub locations which were usually dominated by upcountry people confirms that displaced persons feared to return to their homes.

In many cases, displaced persons felt discriminated against by the government and therefore, could not return to their homes. The complaints published by some members of one Kalenjin community from Mt. Elgon district illustrates this (MUHURI 1999):

We are displacees of Chebwek, the still volatile part of Mt. Elgon District. At the height of the clashes, some of us crossed over to Uganda but after things cooled down, we came back. Currently the majority of us are still living at Kamaswa; we have been trying to return but all has been in vain. Recently we were informed that we should go for the new IDs (Identity cards) from our locations. Unfortunately, it is a pity that we, the displaced about 30 in number, have been discriminated against and it looks like we cannot get IDs from Chebwek. We have been told to go back to Uganda and yet we are Kenyans with farms in Chebwek area.

The extent of displaced persons varied from region to region but the fact remains that all these persons were rendered homeless. The National Co-ordinating Committee for Displaced Persons (NCCDP) reported that 75% of the 250,000 Kenyans displaced by ethnic violence were women and children with as many as 40 – 50 % of the displaced households being temporarily or permanently headed by women. This was because husbands left to seek work or simply abandoned their families and returned to other wives with farms (shambas) in ancestral areas. In Shirikisho village of Tana River District, for example, 147 families (1608 citizens) were left homeless after violence erupted in 2001 (Coast Peace Initiatives Interfaith Council of Clerics 2001). The children of women whose husbands had deserted their homes or had been killed faced further social problems. In an interview carried out in Mombasa on February 28, 2001, the Coast Peace Initiatives officials noted that displaced children lived in misery and destitution as they were forced to turn to prostitution and drugs.

In many areas affected by ethnic violence, most homeless victims were forced to camp in schools, church compounds and shopping centers. In some isolated cases the victims camped at police stations, as was the case at Songhor. All the displaced victims who were forced to live in camps had to contend with living in makeshift structures of polythene, sheets, cardboards and similar materials (Republic of Kenya 1999a: 60). Consequently, some of the following social problems arose within the camps and other affected areas:

- Poor living conditions in slum areas
- Lack of access to proper healthcare
- Lack of resources to send children to schools
- Increased number of women and girls resorting to prostitution and increased exposure to HIV/Aids
- Increased number of street children
- Lack of resources to start even the most basic small scale informal sector income generating activities (Daily Nation, October 3, 1994)
- The maiming of people
- Loss of property through destruction and looting
- Widespread psychological disorders among the clash victims

The most devastating consequence was the loss of 'hundreds' of innocent human lives. For example in one single act of violence at Likoni in August 1997, ten civilians and five police officers were killed while twelve other police officers were injured (Republic of Kenya 1999a). In another incident at Shirikisho village, five Pokomo people were killed by the Orma using AK47 rifles and Sten guns; hundreds of others were arrested and charged with violence related offences. In the coastal region alone, 400 people were arrested in a manner, which prompted pro-opposition members to accuse the KANU government of arresting their supporters and leaving the actual culprits, who according to them were politicians and senior civil servants from the ruling party (The Economic Review 1997 – August 25 – 31).

It is in this context that politicians in the government and those in the opposition blamed each other for perpetrating the violence. This, in effect led to politicians from one ethnic community blaming their counterparts from other communities. Efforts were therefore, made to apportion blame on others be it a community, a party or individuals. Hon. Molu Shambaro, for example, was blamed for inciting his Orma community against the Pokomo by his infamous declaration that:

“...by 2004, the Tana River (District) will remain with baboons and trees before the administration” (Coast Peace Initiatives Interfaith Council of Clerics (2001:7). The opposition parties at the time (DP, Ford Kenya, NDP etc) accused the government of sponsoring and stage-managing ethnic conflicts while the then ruling party accused the opposition parties for instigating violence with the aim of making the country ungovernable thus rendering the government unpopular and leading to eventual loss of power.

It is in this light that it may be concluded that the government appointed the Judicial Commission of Inquiry to investigate issues pertaining to the ethnic clashes in Kenya as a way of exonerating itself from blame. This may be supported by the fact that the report recommended further investigations of 189 prominent persons comprising politicians and senior civil servants who were adversely mentioned in the ethnic violence report (Republic of Kenya 1999a). To date no such investigations have been carried out by the NARC regime. This is because a number of individuals who were adversely mentioned by the report occupy prominent positions in Kibaki's government.

5.4 ECONOMIC IMPACT

In economic terms, the consequences of ethnic conflict in Kenya can be measured in terms of decline in farming activities, destruction of government forests and private property, loss of business and income and tourism among others. Being one of the primary causes of conflict, land occupation and its use was tremendously affected. In the fertile Kerio Valley, the Marakwet were forced by the Pokot to abandon their agricultural farms to seek refuge in the arid and difficult environment in the slopes of the Keiyo escarpment. This has been a cyclical phenomenon, which consistently occurred before, during and after elections years.

Decline in farming activity in the Rift Valley particularly in areas such as Meteitei, Chepterwai, Burnt Forest, Molo, Njoro, Laikipia, Turbo, Trans-Nzoia among others resulted from the forceful removal of people from their land (Republic of Kenya 1999; DN March 17, 1992).

In a similar trend, the agricultural Pokomo in Tana River District lost their crops to the Orma cattle, which ate and destroyed them with impunity. Occasionally, the Pokomo retaliated by killing the Orma's cattle.

In urban areas like Mombasa and Nairobi, the destruction of private property resulted in the loss of income among the affected communities. At Likoni alone in the Coast Province, 43 houses, 520 kiosks, 13 shops, 17 bars and restaurants, 10 butcheries and several vehicles and the NDP offices at Mashimoni were either destroyed or burnt down. Properties, which were not destroyed after the mayhem, were looted. Generally, both small and large scale businesses were affected leading to loss of employment. For example, a large tuna processing factory employing more than 1000 semi-skilled workers was destroyed in 1997. Although this factory belonged to a member of the upcountry community, it affected the livelihoods of local people (Gatabaki et.al 2000). Similar wanton destruction of private property occurred in Rift Valley Province targeting mainly residential houses. At Chepterwai location alone, 24 houses belonging to the Luyia, Maasai and Teso ethnic communities were burnt (Republic of Kenya 1999a: 79)

A survey carried out in Kwale District (Republic of Kenya 1997) shows that ethnic conflicts impacted negatively on the local population to the extent that 72% of them became casual labourers, unemployed or were engaged in unpaid family labour (KHRC 1998:51). The victims of ethnic conflicts could not access resources in order to start even the most basic informal sector income generating activities. Those who continued to own land could not acquire credit from lending institutions because land ceased to be collateral in the conflict torn areas. Furthermore, the victims could not afford to repay loans because they had been deprived of the basis of their economic livelihood. From a macro economic viewpoint, the general economic investment in the country was negatively affected by a low return on investments. This is because the interest rates on bank savings declined from 24 percent to 3.4 percent and hence resulted in a low cash flow in the

country, which further led to increased poverty and a lower standard of living.

The government also lost substantial forest resources. In the 1992 violence, for example, large acres of government forests were burnt down between March and August in the Rift Valley Province particularly in Molo and Olenguruone. In our field research, we were informed that when the 'tribal clashes' flared up in these areas, the local Kikuyu Community burnt forests in order to pre-empt and stop any invasions of their kinsmen living in Wanyororo by the Kalenjin warriors. The destruction of forests started in Molo and quickly spread to other areas in Nakuru, Baringo and Laikipia districts. It was reported that by the first week of March 1992, 1,700 hectares of government forests had been burnt, of which 1,000 were under exotic trees worth 17 million shillings (Daily Nation June 12, 1992).

The tourism sector, which generates substantial amount of income to private entrepreneurs and the government, was also affected because of the insecurity of both the tourists and entrepreneurs. The monthly loss in revenue due to cancellation of hotel bookings by tourists only was approximately Ksh. 650 million per month, a figure that was expected to rise to Ksh. 1.2 billion per month between December 1997 and April 1998 (KHRC 1997). The cancellations also affected other businesses, such as banking and transport. Apart from economic loss to the country and the privates-sector, environmental consequences were widespread and should be evaluated.

5.5 CONCLUSION

This chapter has demonstrated that the impact of ethnicity and ethnic conflict (clashes) should be analyzed within the context of long and short-term consequences. The consequences are multiple in nature and encompass political, social and economic sphere of life. It can also be observed that the consequences of the clashes pose a challenge to all stakeholders: the victims themselves, the rest of the Kenyan populace, the government, NGOs and the international community. The challenges include healing of wounds, economic reconstruction, the rebuilding of legitimacy and efficiency of governance, the enhancement of the unity of Kenya's ethnic groups and ensuring that the clashes do not recur. The next chapter analyses attempts by stakeholders to manage the ethnic conflicts.

CHAPTER SIX

MANAGING ETHNIC CONFLICT

6.1 INTRODUCTION

Several initiatives were undertaken at various levels to manage ethnic conflicts in Kenya in the 1990s. Foremost in this endeavour were attempts by the communities who had borne the devastating effects of the conflicts. The state also got involved in attempts to deal with the violence. However state initiatives, particularly through the setting up of commissions of inquiry, have been largely dismissed as too cosmetic and ineffective (Ashforth 1990 a and b). The civil society, led by religious organizations and local and international NGOs, have perhaps been the most effective actors in the management of ethnic conflicts in Kenya.

6.2 COMMUNITY INITIATIVES

In Laikipia, the local communities took the first initiative as they were the most immediately and seriously affected. When livestock thefts threatened to spark off inter-ethnic fighting between the Kikuyu and the Samburu in 1992, the two communities convened a *baraza*. But as elders from both sides assembled, to resolve the misunderstanding, Samburu youths armed with sharpened sticks, *Shultuti*, disrupted the proceedings sending people helter-skelter. Shortly afterwards they disrupted a livestock auction and that night two people, a Kikuyu and a Kalenjin were reportedly killed. It would appear that the minds of the Samburu had been so poisoned against the Kikuyu by the political climate at the time that the traditional modes of conflict resolution that had been effective in the past could not work.

The failure on the part of elders to resolve what appeared to be a minor local conflict occurred again in January 1998, thereby precipitating the Ol'Moran massacre. On January 13, 1998, livestock belonging to a Pokot elder were reportedly slashed by the Kikuyu. The ensuing tension led to the convening of a *baraza* on the 13, of January. Unfortunately as the reconciliation exercise was proceeding, angry Pokot warriors reportedly burned houses belonging to the Kikuyu (DN, February 1999). It can be argued that the Ol'Moran massacre was precipitated by *agents provocateurs* who succeeded in ensuring that the two communities were irreconcilable. Better-armed and organized 'warriors' then took advantage of the situation to perpetrate the mayhem.

On January 19, 1998, once again, members of the Kikuyu community assembled at Kinamba to strategise on how to resolve Ol'Moran violence and help the victims because the government security forces in Laikipia were taking far too long to restore order. When the local chief, Joseph Juma Gakure, tried to address the meeting, he was shouted down by incensed crowd who felt he had acted like a government spy. It was known that he had compiled a list of individuals he suspected to have held night meetings and given it to the District Officer. The Kikuyu were also concerned that the government he represented had been reluctant to intervene and hence organized night meetings to plan to defend themselves and carry out revenge operations. Chief Gakure was, therefore, ordered to go away by the crowd which was then addressed by the following elders: Gichuru Gatheru, John Ndegwa, Albert Waigwa, Johnstone Muchina, Mwangi Mathenge and Ndungu Minjire (all Kikuyu). The meeting finally resolved as follows: that the elders immediately go to the District Officer to urge him to intervene; that funds be raised to fuel motor vehicles to collect bodies of victims from Ol'Moran for burial; and that the local youth should form vigilante groups (East African Standard, March 20, 1999). These resolutions were not implemented to the satisfaction of the Kikuyu community because the Government had a different strategy for handling the situation. Nevertheless, the Kinamba incident showed that chiefs were incapable of playing a useful role in conflict resolution

as they were alienated from the civilian population who saw the chiefs as agents of state oppression. At the same time, the pervasive authority of the state was a hindrance to the participation of civilians in conflict resolution.

In Marakwet District, particularly in the violence hit Kerio Valley side of the district, elders occasionally convened dispute resolution and reconciliation meetings between the communities in conflict. The elders were drawn from the various clans that inhabit Aror and Tot divisions, where the worst attacks occurred in the last decade. Elders thus played a key role in bringing together the conflicting parties to resolve their differences and negotiate the use of pasture and other resources in the area. They even presided over oath-taking ceremonies aimed at binding the communities to peace truces (NCKK, SNV and SARDEP 2000).

Elders in Marakwet district also resorted to illegal acquisition of arms to defend their community in the face of increasing insecurity, particularly since the government failed to provide a genuine and lasting solution to increasing insecurity in Kerio Valley (Kamenju, et al. 2003). This served to reduce the incidence of attacks on the Marakwet by the Pokot. On the other hand, it served to compound the proliferation of illegal arms in the region and negatively affected the overall security situation of the communities of the north Rift region in general and Kerio Valley in particular.

In Kibera, Likoni, Molo and Tana River clash areas, community leaders appealed for state intervention to quell the violence while also calling on the church and civil society organizations to bring in humanitarian relief. Individuals advocated for an end to ethnic conflict through media appeals. In Molo, for instance, certain individuals took the role of “informants” and would relay “intelligence reports” on impending attacks by Kalenjin warriors. This helped to alert, and therefore prepare the Kikuyu to flee well in advance before the attackers arrived or to fight back. Collective insecurity emboldened the community resolve to survive ethnic violence in various parts of the country.

In a self-fulfilling prophecy highly placed government officials and politicians while mobilizing local residents of different ethnic groups for reconciliation usually informed them that the perpetrators were outsiders. By implication these were people known to the officials and yet throughout the period of great suffering and loss no major arrests and prosecution of these culprits (outsiders) were carried out.

6.3 STATE RESPONSE

With regard to state response, it can be argued that the Government of the Republic of Kenya, under President Moi never seriously addressed the problem of ethnic conflict in Kenya. Evidence abound showing that state security officials from various cadres of the police force and senior members of the provincial administration aided and abetted the clashes. Some police officers trained raiders, while others took no action to stop the violence even when they had been furnished with information on impending attacks. KANU politicians shielded individuals implicated in administering illegal oath on youths who would in turn go on raiding missions (Republic of Kenya 1990a).

The government's initial reaction to the outbreak of violence in Laikipia district, for instance, was to deny that there was any violence at all. In fact, at one time, President Moi described what was happening in the area "a mere highway thuggery" (Kariuki 2001:139). It is not, therefore, surprising that it took the local security forces nearly two weeks after the start of the violence to intervene (WR, February 8, 1998). But even when the forces were finally mobilized to end the conflict, they were inadequately equipped and empowered to do so. Kariuki (2001: 130) describes the situation as follows:

The police personnel already deployed in the area said they had been ordered not to take any action until further instructions. They complained that they could see killers on nearby hills, but could do nothing because of the order to wait for instructions from above... They had been told not to open fire on any group, including the killers.

The laxity of the Laikipia District Security Committee in response to the violence was confirmed by the then Acting DC of the area, Lorna Odero in her oral submission to the Akiwumi Commission (EAS, March 19, 1999 and DN, March 19, 1999). She stated that the then District Officer of Ol'Moran, Jonathan Kiprono Soi, withheld from her vital information, which could have assisted in averting the violence. When she requested the area police boss to accompany her on a visit to Ol'Moran to assess the situation there, the officer refused on grounds that he did not have enough security personnel.

In the light of the foregoing, the following statement by Duncan Wachira, the Police Commissioner at the time, was simply a device to exonerate the Government, particularly the security forces, from accusations of laxity and complicity in the Laikipia violence. He stated:

When the Laikipia fighting was reported to the police, immediate action was taken by the forces on the ground to contain the situation. Later, because of the magnitude of the problem, more reinforcements drawn from the General Service Unit, the Anti-Stock Theft Unit were sent to Laikipia, the Administration Police, and the regular police. These forces moved with speed and restored law and order in the area. It would be grossly unfair for any one to claim that officers sent to quell the disturbances were bored because they did not have adequate instructions to act. If our officers were indeed inactive, calm would not have returned to those areas. Despite the difficult circumstances under which the officers were operating, their efforts were rewarded when they recovered 14 of the 71 goats stolen and arrested two suspects. (WR, January 30, 1998)

Wachira's attempts to defend government security forces were futile and ironical. He limited their role to the recovery of a few stolen livestock rather than the protection of the lives of innocent victims, many of who had either been killed or displaced. The instructions the security forces were able to carry out effectively but long after the eruption of the violence was that the police should "deal swiftly and decisively with anyone who is armed and take all steps necessary within the law to put an end to all arsonist activities in the areas". This led to

the arrest of many people, among them innocent individuals including those who were transporting the victims of violence to safer places (DN, February 1998). We therefore see a government that had become so powerful and authoritarian that it was capable of sponsoring 'ethnic' violence but too weak to restore law and order. This paradox compromised the government's role in conflict resolution in Laikipia.

Management of the Pokot-Marakwet conflict by the Government can only be described as deplorable. Clearly, the government was never seriously interested in resolving ethnic animosity between the Pokot and the Marakwet. The many violent attacks that occurred in the Kerio Valley failed to stir the government's intervention. Indeed, one only needs to visit Kerio Valley to witness the ravaged lives of the Marakwet people to fully understand the magnitude of the government's failure in safeguarding the people's constitutional right to security (KHRC 2001).

On the face of it, the government's main role was the deployment of security forces to control the conflict. To this end the government placed various security units along Kerio Valley. Both administration and regular police, the General Service Unit, anti-stock theft unit and intelligence officers were stationed at Mogil, Chesongoch, Arror Tot and other areas to pre-empt any attacks by the Pokot. In all, government forces in the area were ineffective in containing conflict, apprehending its perpetrators or recovering stolen livestock.

Residents interviewed in Marakwet for this study noted that security forces offered little or no help at all during times of attack, either due to unwillingness to do so, or due to inadequate manpower and shortage of effective weaponry. For example, during the March 2001 attack on Murkutwo location, invading Pokot raiders encircled and overpowered the anti-stock theft unit police officers at the Chesongoch camp rendering them powerless in defending the people. Many Marakwet residents held the view that the government neglected them and left them at the mercy of the hostile Pokot. They had no confidence in the state's ability to protect the area. They argued that security personnel

was deployed without proper instructions on what to do and that the government would have decisively dealt with the problem of insecurity if it so wished.

The state response to the Kibera violence was at first slow and indecisive, however, the government security forces moved as the death toll rose and the exodus of residents from Kibera gathered momentum. Continued condemnation by the media and pressure from the clergy and civil society accelerated this move by the government. A special DC from the Luo community, which was part of the warring groups, was appointed and stationed at Kibera District Officer's Office to coordinate state efforts to reconcile the communities and restore peace. The special DC was, however, criticized by a section of the people in Kibera for being insensitive and dictatorial. The deployment of security forces and the use of the Provincial Administration may thus be factors that may explain the cessation of violent hostilities in Kibera. Eventually, after close to two weeks of violence, the combined efforts of government security personnel and the civil society fostered dialogue among the warring parties who finally ended the violence. The government called on those who had fled from their homes to return and people began to reconstruct their houses. Life returned to normal by January 2002.

It should however, be noted that, below the façade of peace in Kibera lie deep rooted grievances that must be addressed by the government and other stakeholders if genuine and sustainable peace is to be achieved in the area. The land question needs to be addressed urgently so that those who claim ownership of land in Kibera can be granted legal recognition. Politicians should also stop the culture of dividing communities along ethnic lines in pursuit of cheap political ends.

In Tana River, like in other areas in the country previously hit by conflict, the government's intervention to manage the volatile situation amongst warring communities was both wanting and suspect. There were widespread feelings of disenchantment amongst communities in Garsen division of Tana River district. People felt that the state efforts

to stop ethnic conflict in the area came too late after the people had suffered.

One specific control act on the part of the state was the withdrawal of fire-arms previously issued to homeguards, otherwise known as Kenya Police Reservists (KPRs). This repossession was not done through a transparent process. As a result, the Pokomo community felt that the government was favouring the Orma community. In fact, most police officers charged with managing the Tana River conflict on behalf of the state were drawn from the Orma community raising concerns about their impartiality in a conflict in which they (Orma) were interested parties.

Apart from the deployment of armed security forces, the government employed reconciliation techniques to restore peace and tranquility. In particular, the government, through the provincial administration, organized *barazas* in some of the affected areas in which leaders condemned the violence. However, this did little to reduce tension in most violence-hit areas.

Another important role of the government in managing ethnic conflict can be seen in the government's establishment of committees and commissions of inquiry. The government appointed a Parliamentary Select Committee in 1992 to investigate ethnic clashes in western and other parts of Kenya (Republic of Kenya 1992a). The Kiliku Committee, as it came to be known in reference to its chairman, published its report in September 1992 and it incriminated the state and certain powerful politicians with close ties to the president. Among the key findings of the committee were:

- Some officers in the provincial administration directly participated or encouraged the clashes.
 - Response (from the state) was poor and too slow thereby precipitating the escalation of the clashes.
 - Public utterances by some administrators were a contributory factor in inciting people to fight.
-

- The District Security Committees acted half-heartedly and did not forestall the clashes in the nick of time.
- Politicians (particularly senior ruling party politicians) publicly made inciting and inflammatory remarks and statements.
- The clashes were politically motivated.

With the escalation and spread of the ethnic conflict in other parts of the country such as Laikipia, Tana River, Likoni and elsewhere between 1992 and 1998, the government, in 1999, appointed a Judicial Commission of Inquiry (also known as the Akiwumi Commission) to inquire into tribal clashes in Kenya. The commission presented its report to President Moi on 31 July 1999, but the report was only released to the public in September, 2002 following a court order after a successful case filed by one of the victims of the Likoni clashes.

The Judicial Commission (Republic of Kenya 1999a) and the Parliamentary Select Committee (Republic of Kenya 1992a) published detailed accounts based on evidence adduced from a cross-section of witnesses throughout the country. These included clash victims, government security officials, illegal oath administrators and witchdoctors, church and civil society officials, ordinary citizens, businessmen, senior administration officers and politicians. According to the Judicial Commission:

The senior most members of the police force and the provincial administration aided and abetted the clashes at the Coast. Among others were Francis Gichuki, Hassan Haji, Timothy Sirma, Joseph Jakaiti, Japheth Mwanja, Wilfred Kimalat, Wilson Boinet and Duncan Wachira. Politicians at the Coast province were also involved in the attacks against the upcountry people. These included Hisham Mwidau, Mwalimu Shakombo, Boy Juma Boy, Suleiman Kamolle and Kassim Mwamzandi. All these politicians were staunch KANU supporters with Sajjad, a wealthy Kenyan of Asian descent, heavily funding and co-ordinating the clashes.

It should be noted that the reports by the commissions of inquiry were criticized and widely rejected by the same government, which had set them up. The report by the Parliamentary Select Committee was dismissed as utterly nonsensical by the KANU dominated parliament immediately it was published in 1992. Later, in its criticism of the Report of the Judicial Commission, the government stated that the commissioners accepted extraneous evidence, delved unnecessarily into the historical roots of the clashes and were biased against the Maasai and Kalenjin communities and certain individuals in the Provincial Administration and the police force (Republic of Kenya 1999b). Having been implicated in the clashes, the government desperately attempted to exonerate itself and its officials by dismissing as unauthentic reports by commissions of inquiry set by itself! None of those adversely mentioned in the reports were summoned to defend themselves from the charges against them. It can be argued that the government's appointment of commissions of inquiry was more of a public relations exercise than a serious effort to inquire into the actual causes of the conflict and do something about them.

6.4 CIVIL SOCIETY INITIATIVES

By far, the most serious and sustained interventions to resolve these conflicts in Kenya have been those made by civil society organizations. Notable among these are the churches, local and international non-governmental organizations and community-based organizations. The KHRC widely condemned the politically instigated ethnic conflicts in various parts of the country. It also spearheaded advocacy and lobbying initiatives for peace in the county. This was done through sponsoring newspaper articles, radio and press conferences, research and publications. The organization is credited for highlighting the plight of ethnic conflict victims nationally and internationally and their negative effects on elections (KHRC 1997; KHRC 1998 and KHRC 2001). These publications not only helped to inform the Kenyan public and the international community about the real culprits and perpetrators of ethnic conflict, but also to put pressure on the Kenyan political leadership to stop ethnic violence.

Civil society organizations, among them the Kibera Youth Development Programme (KYDP), also played a critical role in reconciling the communities by facilitating peace talks. The KYDP, with the Government and international non-governmental organizations such as Oxfam, held talks among representatives of landlords and tenants. Initially, there appeared to have been confusion between the special D.C and other high-ranking government officials on the one hand, and the lower ranking officials like the chiefs on the other hand. The former supported the suggestion to lower rents by 50% while the latter held the view that individual 'landlords' should discuss and agree with their tenants on how much to pay as rent.

A number of non-governmental organizations gave material assistance to the victims of violence in Tana River, Likoni, Molo, Laikipia and Kibera. The NGOs included among others the International Committee of Red Cross (ICRC), Oxfam, World Vision, ITDG-EA, SNV Netherlands and CBD. They offered assistance in the form of food, building materials, blankets and cash to the clash victims. They also facilitated reconciliation efforts between warring communities in the clash areas and repeatedly called on the Government to intervene and maintain security. Oxfam, for instance, provided money to buy land for resettling the victims in Thesalia and Muhoroni, in 1993/1994. The ICRC provided food and other items for Likoni clash victims, while Peace Net and Oxfam assisted Kibera violence victims in 2001.

Religious organizations, most notably churches, also played a leading role in helping victims of ethnic conflicts in Kenya. The Catholic Church, through its CJPC, and protestant churches, through the NCKK were credited for decisive intervention in several clash-hit areas. In Nakuru, Molo, Laikipia, Marakwet and Tana River, the NCKK and the CJPC helped to feed, house and resettle ethnic clash victims in 1992, 1997, 1999 and 2001. The CJPC in Mombasa housed Likoni clash victims, fed them, gave them bus fare to travel upcountry and called on the government to maintain law and order for all its citizens without fear or favour. The NCKK and CJPC helped to acquire land in Nakuru, and in Trans-Nzoia district to resettle ethnic violence victims in 1994 and 1997.

Besides material support, churches were instrumental in reconciling warring communities. The NCKK and CJPC established a peace programme in the North Rift region of Kenya. It also facilitated the appointment and training of area peace and reconciliation committees. The programmes helped nurture dialogue between the various conflicting communities. They also worked with communities in Nakuru, West Pokot, Marakwet, Trans-Nzoia and Tana River to foster peace and establish income-generating activities (NCKK 2000 and 2002). Peace work was however hampered by several factors including poverty, culture, deep-rooted tensions and mutual suspicion among the communities. Politics, especially in the North Rift, was a critical factor in fomenting this tension.

6.5 Conclusion

While attempts made to manage the clashes had positive results in the short run, they were not wholly successful and satisfactory. Local community initiatives were hampered by mutual suspicion, mistrust, lack of resources, inadequate security and authoritarian intervention by the government through local chiefs and other provincial administrators. The government, for its part, demonstrated serious inefficiency in dealing with the clashes. A number of factors were responsible for this: officials' lack of commitment to duty, differences among the officials regarding the course of action to take; lack of initiative and patriotism, lack of resources including means of transport and communication, and finally inaction and indecisiveness on the part of the regime manifested in its failure to compensate clash victims and punish the perpetrators of violence. Further, while the NGOs may be credited for greater success in their efforts to help the victims, they should be criticized for failing to coordinate their activities among themselves and for the secretive nature of their operations. Since the NGOs have been in action for some time since the upsurge of the clashes, it is now opportune to evaluate their activities more comprehensively and objectively. All these issues and those discussed in earlier chapters of this study centre around the quality of governance and the need for constitutional reform for the achievement of greater democracy. These are discussed in chapters seven and eight.

CHAPTER SEVEN

IMPLICATIONS FOR THE CONSTITUTIONAL REFORM PROCESS

The eruption of ethnic clashes signified the weakness of the Kenyan state and its having been on the verge of failure, disintegration and collapse like other regimes where ethnic clashes had occurred (Milliken and Krause 2002; Reno 2002; Doornbos 2002; and Yannis 2002). From the perspective of their causes, consequences and initiatives to resolve them, the clashes raised issues pertaining to the security and freedoms of Kenyans. They also raised issues about the stability of the state and the extent to which it guarantees the rule of law and democratic practice. The clashes, through orgies of killings, displacement and loss of property, caused a serious breach of human rights: the right to life, the right to liberty and security of persons, the right to freedom of movement, the right to freedom of opinion and expression and the right to property.

The clashes were occasioned by the agents of the state or people acting on its behalf and were, therefore, an indictment of the state as the violator of the rule of law and an opponent of democracy. Indeed, the ethnic clashes signified a constitutional crisis particularly regarding human rights and the right to be human (Shivji 1989 and 1996; Baxi 1989, Mohan and Holland 2001; and Weinstein 1983). Were these rights lost by the mere fact of belonging to a specific ethnic group?

But the constitutional crisis can be best understood if the other crises inherent within it are highlighted. First, there was the crisis of legitimacy, which is normally related to the questions regarding the legality of the acquisition, exercise and loss of power. The underlying factor in this regard is electoral consensus. By 1990s the incumbent KANU regime and its leadership had lost the morality to rule as the party had declared itself the only party by law and elections were manipulated to select or confirm individuals in positions of power. The state often associated

the citizens' clamour for change of regime with a threat to its own security and stability. The ruling elite in KANU sought to maintain themselves in power by all means possible, whether constitutional or unconstitutional.

KANU's resolve to maintain itself in power by all means possible led to a second constitutional crisis. The party became increasingly commandist and patrimonial and divided within itself into 'KANU A' and 'KANU B', quite reminiscent of what happened in the party between 1964 and 1966. It clearly became a victim of the "iron law of oligarchy". It violated its own rules as an institution and the rules of the political game as provided for by the constitution. It transformed all the institutions of the state into its own instruments, ultimately destroying rather than building them. And with the destruction of the institutions, there simultaneously ensued the crisis of management, the third constitutional crisis.

Political leadership is about management of a country together with all its resources - human, natural, legal, cultural, etc for sustainable development. This implies effective harnessing, mobilization and equitable distribution of these resources for the good of the whole country. Proper management, therefore, requires judicious balancing action that minimizes the possibility of conflicts over resources. This view would certainly explain ethnic conflicts in terms of the states' inability to effectively and efficiently manage resource distribution. Is ethnicity necessarily at the centre of the constitutional crisis? If so, how? What is the panacea?

Scholarly comments regarding ethnicity emphasize its centrality in Kenya's politics and constitution making (Okoth Ogendo 1972; Muigai 1995:194; Kibwana and Maina 1996:467; Ndegwa 1997:615; Ghai 2002:91). In his usual dramatic style, Mazrui (2001:6) illustrates the situation thus:

One major characteristic of politics in post-colonial Africa is that politics are ethnic-prone. My favourite illustration from Kenya's post-colonial history was our old friend the late Oginga Odinga and his efforts to convince Kenyans that they had not yet achieved *Uhuru* and were being taken for a ride by a corrupt elite and the elite's foreign backers. Jaramogi Oginga Odinga called upon under-privileged Kenyans to follow him towards a more just society. When Oginga Odinga looked to see who was following him it was not all under-privileged Kenyans regardless of ethnic group but fellow Luos regardless of social class. It was not the song of social justice, which attracted the followers it was who the singer was. Also it was not the song of social justice that kept away others, it was who the singer was. Not the message but the messenger.

Oginga Odinga who had been hounded out of KANU for his leftist leanings formed the Kenya Peoples Union (KPU) in 1966. President Kenyatta castigated Bildad Kaggia as a renegade who had resigned from KANU to join KPU, a Luo party, to challenge him (Leys 1975:225). The fate of KPU was sealed by banning the party in 1969. Subsequent constitutional changes to strengthen the executive must be seen as having been influenced by the desire to strengthen Kikuyu hegemony personified by Kenyatta (Okoth Ogendero 1972). Similar ethnic sentiments found expression in attempts to change the constitution between 1976 and 1978 to bar Daniel arap Moi from ascending to the presidency as Kenyatta was growing old and becoming senile. Moi's leadership was similarly strengthened and protected through a series of constitutional reforms. During Kibaki's presidency which began in 2002, the ethnicization of what should otherwise be a positive reform of the country's constitution came from James Michuki, a prominent cabinet minister, who argued that the intended reforms were no longer necessary as they had targeted KANU and former president Moi who were at any rate no longer in power. Michuki, more unabashedly expressed the genuine political thinking and stance of a clique popularly referred to as the "Mount Kenya Mafia". This group, comprising the Kikuyu, Meru and Embu ethnic groups constitute the core groups of the present political elite in the ruling coalition, NARC

and is known to have turned ultra-conservative on constitutional reform in the country. They have taken this stance primarily to consolidate themselves in power.

The centrality of ethnicity and ethnic conflict in the constitutional crisis outlined at the beginning of this section can best be demonstrated in terms of two main paradoxes. First, the present constitution recognizes the formal equality of all citizens as individuals who ought to enjoy individual rights but it does not provide for ways by which the same rights can be advanced. Hence the following factors mediate in the enjoyment of human rights: differential access to resources based on ethnicity, class and gender. The first two have been elucidated in the earlier parts of this study.

The second paradox is the official desire of the state to establish polyarchy or national unity without really appreciating the extent of the ethnic diversity. Historically, since the colonial era, the state has always been identified with narrow ethnic (also read racial) interests and has been manipulated to create an ethnic (racial during the colonial period) hegemony that deliberately excluded other sections of the community in the process of governance. Yet, ethnicity has not been given constitutional recognition. Only quite indirectly are the ethnicities acknowledged as the constituency and electoral boundaries, which together with provincial and district boundaries, coincide with ethnic boundaries. Ethnic groups may be granted some amount of administrative and electoral autonomy but not political power at the centre. The regional ethnic conflicts are actually ethnic struggles for power at the centre. The two paradoxes, by Yash Pal Ghai (2002:94) are as follows:

The present constitution is oriented towards a unitary centralized state in which few distinctions are made on the bases of ethnic or regional distinctions. The chief feature of a unitary/uniform state is citizenship of a person to the state and which is defined to include

equal rights and obligations of all citizens. No special provisions in respect of political representation, customary rights, land, economic resources etc. are made on the basis of an ethnic, linguistic or cultural community or membership in it. In short the basic principle of such a state is the formal equality of all citizens as individuals, not members of communities.

This seems to contradict the reality of the situation. Again in Ghai's words (Ghai 2002:91):

As in many countries, the people of Kenya speak different languages, belong to different religions, have different histories, cultures and traditions. Tribal and ethnic identities are pronounced, each major 'tribe' wants its leader to be the next president. Appeals for political support are made not to the social, economic, gender or professional interest of the voters, but what are presented as their tribal interests. The emphasis on ethnicity has been a cause of tension, conflict and even civil wars in many places.

The thrust of the argument is that ethnicity and ethnic conflict are real and impinge on the constitutions and governance in Africa. Mazrui poses the following question: "If African politics are ethnic prone, can African constitutions be ethnic proof?" In response, he states that, it is high time we incorporate ethnicity into our constitutions. Mazrui (2001:19) further, makes the following statement:

Here in Kenya we should shed off the superstition that in order to foster national consciousness we must have a unitary state.... Legal logistics are perfectly compatible with national patriotism provided the whole system is inclusive and accommodates differences without marginalizing smaller groups.

He justifies the considerations of the ethnic factor in constitution making and, apart from advocating the politics of ethnic inclusiveness and accommodation, he does not elaborate how this can be done through constitutional reform and other mechanisms.

It is acknowledged in this study that a country's constitution is a power map and that ethnicity is an inescapable and unavoidable signpost in the map. It must never be avoided in constructing a political consensus if the exercise of state power by functionaries is to be considered legitimate.

Kenya's experience with constitution making since the ongoing constitutional review, which commenced in 1998, shows that this is a complex, emotional and highly politicized exercise. Kenyans have since remained divided over the following issues, among others: whether the country should have a presidential system with an executive president or a parliamentary system led by a prime minister; the manner in which power should be devolved from the central to the local government; and whether Muslims should have their own courts or not under the chief Kadhi. The positions taken by Kenyans on these issues have shifted depending on ethnicity, party affiliation, religion, region and the personal ambitions of individual politicians.

CHAPTER EIGHT

CONCLUSION AND RECOMMENDATIONS

This study set out to conceptualize the ethnic question in the context of the transition from one-party rule to multipartyism, presidential and general elections and ethnic clashes. We sought to investigate, for instance, the extent to which governance in the country has been influenced by ethnic considerations and patronage, and to assess their influence on the debate on constitutional reform and struggles for presidential succession. This chapter summarizes the major findings of the study and makes some recommendations regarding ways and means of establishing a more meaningful democratic system of governance in Kenya.

First, the study has argued that ethnicity cannot be conceptualized in isolation from the social, economic and political realities existing in the country. A comprehensive understanding of the phenomenon needs to consider people's culture, the national and global economy and politics. It is further argued that ethnicity is not static; Kenya's historical experience demonstrates that ethnicity is dynamic and that it has changed its complexion in response to changing conditions. Finally, the study finds useful the distinction between moral ethnicity, which is positive as it aids in the articulation and aggregation of communities' economic and political interests that are relevant for their development, and the negative political tribalism, which is concerned with the zero sum game of politicians' struggle for power.

The second major finding of this study is that the course of the ethnic conflicts, which occurred in Kenya between 1991 and 2001, reflected and responded to major political events in the country. These include calls for constitutional reforms, the advent of multipartyism, the emergence of ethnic-based and ethnic-led political parties and presidential and general elections. The organization and execution of

the clashes signified the involvement of prominent politicians and other state officials.

Thirdly, the ethnic conflicts were caused by long term economic grievances revolving around the politics of land and land use systems, unemployment, the deteriorating socio-economic infrastructure, increasing rural and urban poverty. These underlying factors made it easy for politicians to whip up ethnic emotions to rally ethnic support for their struggle for power and to sponsor ethnic violence.

Ethnic violence had short and long term social, political and economic consequences for individuals, communities and the state. They were and still remain a challenge to those who perpetrated them, the clash victims, political and civic leaders, the government, and the local and international non-governmental organizations.

The study has further assessed the initiatives that were taken by various groups to manage the conflicts, namely, their attempts to stop the violence, settle and compensate victims and heal the gaping wounds brought by the conflicts. Among those who undertook interventionist measures were the local communities, the Kenya government, local and international NGOs. They did this with varying degrees of success and limitations. This aspect of the study requires thorough research today given the fact that a more objective assessment is possible now than during the immediate aftermath of the violence.

Finally, the study has analyzed the implications of the ethnic clashes for the ongoing constitutional reforms. The main argument is that the stakeholders in the reform debate should not bury their heads in the sand like the proverbial ostrich in matters regarding ethnicity. They should address issues such as citizenship, rights, the distribution and devolution of power in light of the realities of moral ethnicity rather than from their myopic and selfish interests in consolidating personal and ethnic power.

It is in light of the foregoing that this study makes the following recommendations regarding the positive way forward for Kenya and other African countries:

- There is urgent need for fostering meaningful economic development in all parts of the country to remove ethnic fears and animosity that emanate from relative and absolute deprivation and abject poverty.
- The government should provide pastoralist communities with other means of livelihood to compliment their livestock economy and livelihood.
- The government should try as much as possible to distribute economic resources and infrastructure as equitably as it can.
- The government should formulate a comprehensive land policy to ensure security of ownership and tenure in rural as well as in urban centres.
- There is need for deliberate widespread political socialization through educational systems; the print and electronic media to help the people of Kenya appreciate the importance of unity in diversity.
- The government should be engaged in institution and capacity building to enhance the capability of the state to mobilize human and natural resources more efficiently for sustainable development at all levels.
- The government should establish effective security measurers to curb the proliferation of small arms that exacerbate conflict in various parts of the country.
- The government should find ways and means of compensating and resettling the victims of ethnic clashes (internally displaced persons).
- The government should also find ways of reconciling communities that were engaged in ethnic violence.
- The government should establish greater freedom of association through institutions such as the civil society and other NGOs that promote politics of inclusiveness.
- Existing institutions such as political parties should be liberalized to allow popular and democratic representation.

- The Kenya government should create a more conducive environment than the restrictive one that existed during the KANU regime and that seems to be perpetuated by the ruling elite in the current NARC government, to allow diverse groups to express their fears and anxieties and to suggest positive reform.
- The government should revise constituency boundaries in accordance with economic and demographic change and also amend electoral laws to provide for proportional representation.

We believe quite strongly that these recommendations will not only enhance the capabilities of the Kenya state to mobilize her resources for development but also provide ample opportunities for peaceful co-existence and meaningful participation of the country's diverse ethnicities for greater democratic governance. If these issues are not adequately resolved, the politics of ethnicity and ethnic conflict will remain serious challenges in Kenya and other African countries for a long time to come.

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